MONTANA

Department of Labor & Industry
Employment Relations Division

Workers' Compensation
ANNUAL REPORT

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Montana
Department of Labor and Industry
Commissioner's Office

Governor Brian Schweitzer
Keith Kelly, Commissioner

Dear Colleagues and Fellow Montanans,

It is my pleasure to present the 2008 Workers' Compensation Annual Report to the Governor, the legislature, and to stakeholders in Montana's workers' compensation system. This report provides an overview of system activities, statistics, and benchmarks.

This year continues to be an important year for workers' compensation stakeholders in Montana. The 2009 Montana Legislature enacted some law changes that impact workers' compensation stakeholders and authorized an interim legislative study (SJ30) of workers' compensation cost drivers and the laws related to the Montana State Fund.

The Labor-Management Advisory Council (LMAC) on workers' compensation will continue its efforts to study and address improvements to Montana's systems. The Council will also assist the Economic Affairs Interim Committee with areas the legislative committee wants to study.

WorkSafeMT has completed its strategic planning process and is poised to implement its objectives and action plans to decrease the number of work related injuries in Montana and provide safe work environments for Montana's employees. The department was successful in obtaining funding and additional staff to contribute to this public-private partnership and aide WorkSafeMT in meeting its goals.

The National Council on Compensation Insurance, Inc. announced at its 2009 State Advisory Forum that it has recommended another premium rate decrease of 2.2% effective July 1, 2009. This rate decrease reflects the continued efforts of stakeholders in reducing injuries and helping injured workers return to work as soon as medically possible. The last 3 rate filings represent a combined decrease of 8.0% in the loss cost filings by NCCI.

We trust you'll find the information in this report useful in understanding what's happening in Montana's system. The Department is committed to continue working to meet its goals of system wide improvements that serve the interests of Montana's employers and employees.

Sincerely,

Keith Kelly

Keith Kelly
Commissioner

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Summary

Listed below are highlights from the Montana Workers' Compensation Annual Report, Fiscal Year 2008. This report contains information about Montana's workers' compensation system, including injury statistics and characteristics, benefits paid by insurers, dispute resolution and miscellaneous regulatory programs and functions. Unless otherwise cited, all reported numbers, charts, and tables are derived from the State of Montana workers' compensation database (WCAP).

Claims Statistics

There were 31,641 claims reported in Fiscal Year 2008 (FY08) compared with 31,192 reported in FY07, an increase of 1.4%. From FY07 to FY08 private carriers witnessed an 8.6% increase in the number of claims reported. The number of claims reported by self-insured carriers decreased by 2.4%. Claims reported by Montana State Fund decreased by 1.3%. The service industry was responsible for 35.2% of all claims reported in FY08, the most of any industry. The most common nature of injury in FY08 was sprain/rupture, which accounted for 43.1% of injuries. Strains, jumping, or lifting caused more injuries than other categories of cause (34.3%) and upper extremities were more often injured (30.8% of injuries) than other parts of the body. In FY08, 6,712 claims were denied by insurers, 176 less than in FY07.

Benefits

Total indemnity (wage loss) and medical benefits paid in FY08 were $261.90 million, which represented a 7.2% increase from FY07. The increase in benefits was distributed across medical payments (8.5% increase) and wage loss payments (5.4% increase). This year's annual report adopts an enhanced methodology to create previous years' "benefit triangles," which give information on claim counts and average benefit amounts over time.

Dispute Resolution

The Mediation Unit of the Employment Relations Division (ERD) is the front line in dispute resolution. The unit holds conferences between disputing parties and issues written recommendations. During FY08, the unit processed 1,345 petitions, with a resolution rate of 82%.

The Hearings Bureau received 9 new petitions for contested case hearings in FY08, a decrease of 40% from FY07.

The Workers' Compensation Court (WCC) received 203 petitions, dismissed 46 petitions and issued 246 decisions in FY08.

Workers' Compensation Assessments as Expended

The administration of the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment on employers and insurers. The cost of the regulatory functions in FY08 was $6.27 million. Beginning in FY00, a new process was instituted and each insurer was assessed 3% of benefits paid. For policies written by private insurers and the Montana State Fund, the assessment is collected as a premium surcharge paid by individual policy holders.

Subsequent Injury Fund

Subsequent Injury Fund (SIF) payments in FY08 for all dates of injury totaled $627,683. There were 205 new SIF certifications during FY08 resulting in a total of 4,208 certified individuals in Montana.

Uninsured Employers' Fund

Uninsured Employers' Fund (UEF) provides benefits for injured employees when employers are without appropriate workers' compensation insurance. In FY08, UEF collections decreased 20.1% from FY07, totaling $2.06 million. There were 71 new claims and injured workers received $757,302 in medical and indemnity benefits in FY08.

Occupational Safety & Health

The Occupational Safety & Health Bureau provides extensive statewide services to improve safety culture in Montana. Staff performed 279 inspections for the public sector and 232 consultation visits for the private sector. In addition, staff performed 35 inspections for the coal mining industry and 116 inspections for sand and gravel operations. The Bureau Training Institute provided 53 occupational safety and health training courses and participated in a number of local health and safety focus groups aimed at improving safety knowledge and networking.

Contractor Registration

The Construction Contractor Registration program, (CCR), facilitates the registration of construction contractors working in Montana. In FY08 there were 11,227 active Construction Contractor Registrations, with approximately 4,878 contractors registered as having employees.

Independent Contractor Exemptions

Independent contractors who do not wish to be covered under workers' compensation insurance may file for an exemption with the Department of Labor and Industry (DLI). The number of independent contractor exemption applications received for FY08 totaled 9,761, of which 9,259 were approved. Sixty-two percent of independent contractors are in the construction industry.

Professional Employer Organizations

To be licensed, a Professional Employer Organization (PEO) must submit an application and proof of workers' compensation coverage. Thirty-eight PEOs were licensed in Montana at the end of FY08. These PEOs leased 3,321 employees to 624 client companies.

Labor-Management Advisory Council on Workers' Compensation

Labor-Management
Advisory Council

WorkSafeMT

Labor-Management Advisory Council

The Labor-Management Advisory Council (LMAC) was re-commissioned by the Department of Labor and Industry in 2008. The goal of the LMAC is to enhance business competitiveness through a safe and healthy workforce, while maintaining benefits to injured workers and reducing insurance costs. The LMAC is chaired by Lt. Governor John Bohlinger at the request of Governor Brian Schweitzer.

The LMAC has five employer representatives:

- Bill Dahlgren (Sun Mountain Sports)
- Annette Hoffman (St. Vincent's Healthcare)
- Riley Johnson (National Federation of Independent Business)
- Connie Welsh (State of Montana)
- Bob Worthington (Montana Self-Insurers Association)

And five labor representatives:

- Doug Buman (Laborers' International Union of North America)
- Jacquie Helt (AFL-CIO)
- Dan Lee (AFL-CIO)
- Don Judge (Injured Workers Resource Council)
- Jason Miller (Teamsters and Carpenters Unions)

According to the 2007 Bureau of Labor Statistics, Montana's injury rate is 50% higher than the national average.

Currently, an injured worker in Montana is off work an average of 111 days compared to a national average of 88 days. Based on the fact that Montana has significantly higher frequency and duration rates than the national average, safety and return-to-work have become primary areas of emphasis for the LMAC.

To address these two major impact areas, the LMAC formed a public/private partnership called WorkSafeMT to direct and coordinate a host of safety and return-to-work program. WorkSafeMT is modeled on WorkSafeBC (British Columbia), which has an impressive multi-year track record of measurable success.

Advisory Council meetings are open to the public and public comment is encouraged. For more information on the council, visit http://erd.dli.mt.gov/wcstudyproject/labormngmntadvisorycouncilonwc.asp.

WorkSafeMT

WorkSafeMT is a public/private partnership formed by LMAC to address two major impact areas for workers in Montana: a high frequency of workplace injuries and long durations before return to work after an injury. It is a coordinated effort of employers, employees, providers and other stakeholders with the mission to develop a universal expectation of workplace health and safety in Montana.

Through proactive training, education, utilization of available resources, and shared accountability, WorkSafeMT seeks to eliminate occupational injury, illness, and death statewide. For injured workers, WorkSafeMT promotes a transitional employment system that supports and values the physical and mental health and financial well–being of the employee and the needs of the employer.

Vision

WorkSafeMT envisions a future without injury, illness, and death in Montana's workplaces. Potential and current employees will utilize safe work practices and prevent both their own injuries and those of co–workers. Employers and employees will make health and safety a primary focus. Employers and employees will be informed and motivated to improve safety and will be equipped with the tools and resources to prevent workplace injury.

Those workers who do sustain workplace injuries will experience a comprehensive effort aimed at transitioning injured workers back to work as efficiently and safely as possible. Employers and providers will interact early with injured workers using internationally recognized best practices. Actions by employers, employees, and providers will prevent the negative physical, psychological, vocational, and financial consequences of workplace injury from becoming a liability for all stakeholders.

Montana's workplaces will be among the safest in the nation. Montana will rank among the most competitive states for attracting and retaining businesses and employees.

For more information go to: www.worksafemt.com.

2009 Montana Legislative Session

2009 Montana Legislative Summary

House Bills

Senate Bills

2009 Montana Legislative Summary

Several bills relating to workers' compensation were introduced during the 2009 Montana Legislature. The bills passed into law are summarized below.

House Bills

House Bill 119. Revise employment laws including workers' compensation.

- Allows Department of Labor and Industry to recognize tribal workers' compensation coverage by entering into an agreement with a tribal government for off-reservation work when a person is employed by an enrolled tribal member or business that is at least 51% owned by enrolled tribal members. Coverage is to have same effect as exclusive remedy under Plans 1, 2, or 3.
- Brings religious corporations, organizations or trusts into workers' compensation coverage for agricultural production, manufacturing or a construction project conducted by its members on or off the property.
- Removes the 26 week limit on Temporary Partial Benefits.
- Claims for Occupational Diseases must be in writing and signed.
- Interest is due from insurers to medical providers on accepted medical bills unpaid over 30 days, and to insurers from medical providers on overpayments unpaid after 30 days at 1% a month. Effective April 1, 2009.
- Subsequent Injury Fund certification will be effective upon receipt of the application, not approval, if application is prior to a subsequent injury.
- Insurers may authorize a 90 day mail order of prescription medicine.
- These sections are effective July 1, 2009, except as noted.

House Bill 126. Department of Administration authority for management of state agency workers' compensation policies.

- Authorizes the Department of Administration to manage workers' compensation coverage for state agencies, except management of the judicial and legislative branches.
- Contingent upon mutual agreement of the Department of Administration and Montana State Fund, one or more policies may be issued for state agencies.
- Effective July 1, 2009.

House Bill 138. Revise employment safety and occupational health acts.

- Revises the Montana Safety Act and the Occupational Health Act to reflect the enactment of OSHA in 1970. Modernizes archaic language in the Acts.
- Requires Department to invite a representative of labor and a representative of management to accompany the inspector in public sector safety inspections.
- The Department may provide onsite safety services to private sector employers that request onsite safety consultation services.
- Effective July 1, 2009.

House Bill 204. Revise Independent Contractor laws.

- The bill revises Independent Contractor (IC) laws to make the process less onerous for IC's who renew their exemption.
- Requires at a minimum a 3 year retention schedule for application materials.
- Applies to renewals on or after July 1, 2011 and specifies that an IC does not have to resubmit those documents that the applicant certifies under oath are still valid and current and the Department independently verifies that the document is still current and valid.
- Effective October 1, 2009.

House Bill 283. Revise Workers' Compensation Act on exemptions, and provide for voluntary claims examiner certification.

- Requires a letter of intent with specific criteria to create a new exemption from Workers' Compensation coverage.
- Provides voluntary certification of claims examiners under a program created by the Department.
- Effective July 1, 2009.

House Bill 378. Exempt carriers for freight forwarders from workers' compensation.

- The bill adds freight forwarders to the exemption passed last session for freight brokers.
- The exemption is for the intrastate or interstate common or contract motor carriers who are hired by freight forwarders. The term is defined in federal statute.
- Effective April 16, 2009.

House Bill 598. Exempts contract musicians from coverage requirements.

- This bill exempts musicians performing under a written contract from coverage under the Workers' Compensation Act.
- Effective May 5, 2009.

Senate Bills

Senate Bill 42. Process for substitution of the Workers' Compensation Judge.

- The bill provides a process for substitution of the Workers' Compensation Judge in the event of a recusal by the Workers' Compensation Judge.
- Effective March 17, 2009.

Senate Bill 192. Small business workers' compensation relief.

- The bill allows the establishment by Montana State Fund of one or more groups of policy holders for shared risk safety groups where they may share a return on premium if group performance is better than average.

- To be eligible, a policyholder must have a written safety program in place for more than one year, adopt a transitional and return to work program, have at least 3 years of experience without losses, use available safety consultation services from Montana State Fund or the Department, and comply with the terms and conditions established by MSF.

- MSF will establish terms and conditions for participation and will establish criteria under which group members qualify for return on premium. A group will have to have good performance to qualify for the premium return.

- The bill is effective on July 1, 2009 and applies to groups formed on or after July 1, 2010.

Senate Joint Resolution 30. Study workers' compensation.

- Provides for an interim committee to study workers' compensation cost drivers to include frequency of claims, medical costs, exemptions, presumptive diseases and attorney fees.

- Review the three-tiered system involving self-insurers, private carriers, and the Montana State Fund.

- Examine the operation and structure, relationship with state government and other insurers and state oversight of Montana State Fund.

- Final results and draft legislation to be reported to the next legislature.

Montana Workers' Compensation System

Declaration of Public Policy

Insurance Coverage Requirements

Life of a Claim

Workers' Compensation System Administration

Workers' Compensation Market

Declaration of Public Policy[1]

It is an objective of the Montana workers' compensation system to provide, without regard to fault, wage-loss and medical benefits to a worker suffering from a work-related injury or disease. Wage-loss benefits are not intended to make an injured worker whole, but are intended to assist a worker at a reasonable cost to the employer. Within that limitation, the wage-loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

It is the intent of the legislature to assert that a conclusive presumption exists that recognizes that a holder of a current, valid independent contractor exemption certificate issued by the department is an independent contractor if the person is working under the independent contractor exemption certificate. The holder of an independent contractor exemption certificate waives the rights, benefits, and obligations of this chapter unless the person has elected to be bound personally and individually by the provisions of compensation plan no. 1, 2, or 3.

A worker's removal from the workforce because of a work-related injury or disease has a negative impact on the worker, the worker's family, the employer, and the general public. Therefore, an objective of the workers' compensation system is to return a worker to work as soon as possible after the worker has suffered a work-related injury or disease.

Montana's workers' compensation and occupational disease insurance systems are intended to be primarily self-administering. Claimants should be able to speedily obtain benefits, and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

Title 39, chapter 71, MCA must be construed according to its terms and not liberally in favor of any party.

The legislature's intent regarding stress claims, often referred to as mental-mental claims and mental-physical claims, is not to provide for compensation under Montana's workers' compensation and occupational disease laws. The legislature recognizes that these claims are difficult to objectively verify and that the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The legislature also recognizes that there are other states that do not provide compensation for various categories of stress claims and that stress claims have presented economic problems for certain other jurisdictions. In addition, not all injuries are compensable under the present system, and it is within the legislature's authority to define the limits of the workers' compensation and occupational disease system.

[1] §39-71-105, MCA (2007)

Insurance Coverage Requirements

If you are an employer or an employee, the Workers' Compensation and Occupational Disease Acts apply to you. An employer who has an employee in service under any appointment or contract of hire, expressed or implied, oral or written, must elect to be bound by the provisions of compensation Plan 1 (self-insured), Plan 2 (private insurance companies) or Plan 3 (Montana State Fund).

Employment Exempted

The Workers' Compensation Act[1] may not apply to any of the following employments:

- Household or domestic employment
- Casual employment
- Dependent member of an employer's family for whom an exemption may be claimed by the employer under the Federal Internal Revenue Code
- Sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member managed limited liability company
- Real estate, securities or insurance salesperson paid solely by commission without a guarantee of minimum earnings
- A direct seller
- Employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States
- A person performing services in return for aid or sustenance only, except employment of search and rescue volunteers
- Employment with a railroad engaged in interstate commerce, except railroad construction work
- An official, including a timer, referee, umpire or judge, at a school amateur athletic event
- A person performing services as a newspaper carrier or freelance correspondent
- Cosmetologist's services and barber's services
- A person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the reservation
- A jockey who is performing under a license issued by the Board of Horse Racing, from the time the jockey reports to the scale room prior to a race, through the time weighed out, and has acknowledged in writing that the jockey is not covered while performing services as a jockey
- Trainer, assistant trainer, exercise person or pony person who is providing services under the Board of Horse Racing while on the grounds of a licensed race meet
- An employer's spouse
- A petroleum land professional

[1] MCA (2007)

- An officer of a quasi public or a private corporation or manager of a manager managed limited liability company
- A person who is an officer or a manager of a ditch company
- Service performed by an ordained, commissioned or licensed minister of a church
- Independent Contractors
- Providers of companionship services or respite care, if a family member or legal guardian hires the person providing care
- A person performing services of an intrastate or interstate common or contract motor carrier when hired by an individual or entity who meet the definition of a broker
- An athlete engaged in a contact sport

Life of a Claim

Accidents do happen and when a Montana employee files a workers' compensation claim, the life of that claim is dictated primarily by statute. Progress of a typical workers' compensation claim in Montana is determined by the following guidelines:

- Once the injury occurs, the injured worker or their authorized representative has 30 days from the date of injury to notify the employer (employer, managing agent or superintendent in charge of the work) or the insurer. [§39-71-603, MCA]

- The employer then has six days from the date of notification of an injury to report the injury to the insurer or the DLI. [§39-71-307, MCA, and ARM 24.29.801]

- The claimant or the claimant's representative has 12 months from the date of injury to file a claim. [§39-71-601(1), MCA] The claim filing time can be extended up to an additional 24 months if it can be proven that the worker was somehow prevented from filing the claim because of something the employer or the insurer said or did, or if the injury was latent or the worker lacked knowledge of disability. [§39-71-601(2), MCA]

- The signed claim form or First Report of Injury and Occupational Disease (FROI) (form ERD-991) can be submitted to the employer or sent directly to the insurer or the DLI. [§39-71-601(1), MCA]

- The insurer shall accept or deny a claim within 30 days of receipt of a signed claim for compensation by the claimant, the employer or the claimant's representative. If the claim is denied, the worker is notified in writing of the denial. [§39-71-606, MCA]

- If further investigation is needed before the insurer accepts liability and the 30 day limitation for a decision on compensability is due to expire, the insurer may pay wage loss and/or medical benefits without such payment being an indication of admission of liability or waiver of any right of defense. [§§39-71-608 and 39-71-615, MCA]

- The first 4 days or 32 hours (whichever is less) of total wage loss is not compensable, but a claimant may use sick leave during this time. A claimant cannot use sick leave and receive wage loss benefits at the same time. [§39-71-736, MCA]

- In addition to using an emergency room or urgent care center, the claimant has the right to select the first treating physician (within the treating physician definition). The insurer must then approve changes of treating physicians. The insurer has the right to deny payment for any unauthorized medical referrals and treatments. [§39-71-1101, MCA, and ARM 24.29.1510]

- The physician bills the insurer directly. Payment is made according to a fee schedule. [§39-71-704(2) and (3), MCA]. Once the insurer has accepted a claim, the medical provider must accept the fee scheduled reimbursement as payment in full, and the claimant is not responsible for any balance.

- The claimant is responsible for payment of: (1) unauthorized treatment, (2) medical care not related to the injury, (3) medical services if treatment is not received for 60 months, (4) secondary medical services and palliative or maintenance care unless specifically covered, and (5) medical procedures specifically excluded. [ARM 24.29.1401 and §39-71-704, MCA]

- Temporary total disability (TTD) benefits are based on 66 2/3% of the claimant's average weekly gross wages, subject to a maximum of the state's average weekly wage, and are paid bi-weekly until the claimant returns to work or has reached maximum medical improvement (MMI). [§§39-71-701 and 39-71-740, MCA] If the claimant is classified as permanently totally disabled (PTD), benefits can continue until the claimant reaches retirement age. [§39-71-710, MCA]

- If prior to attaining maximum medical improvement (MMI) and due to medical restrictions, the claimant returns to work at less than the wages received at the time of injury, they may be entitled to temporary partial disability (TPD) benefits. Temporary partial disability is limited to 26 weeks unless extended by the insurer. [§39-71-712, MCA, 2007]

- If after reaching MMI, the claimant has a residual impairment, greater than zero, the insurer is required to pay out the permanent partial disability (PPD) liability bi-weekly, unless the claimant requests a lump sum payment. [§§39-71-703 and 39-71-741, MCA]

- Other permanent partial disability liability is based on age, education, loss of earning capacity and work capacity restrictions. These criteria are determined based on the specifics of each individual case. [§39-71-703, MCA]

- If the worker is precluded from returning to the job they held at the time of injury and suffers an actual wage loss or has an impairment of 15% or greater, the worker is eligible for rehabilitation services. The insurer designates a rehabilitation provider and rehabilitation services are provided with the goal of returning the claimant to work as soon as possible. If a rehabilitation plan is established which indicates some type of retraining, the claimant may be eligible to receive monies for tuition, fees, books and other reasonable and necessary retraining expenses. The worker may also receive bi-weekly benefit payments based on the temporary total disability rate. [§39-71-1006, MCA] Financial assistance may also be available for reasonable travel and relocation for training and job-related expenses, subject to a maximum amount of $4,000. [§39-71-1025, MCA]

- Medical benefits may remain available for at least 60 months (5 years) from the last date of service. The insurer may not be required to furnish palliative or maintenance care after the claimant has achieved MMI. [§39-71-704(1)(e), MCA]

Workers' Compensation System Administration

Employment Relations Division (ERD) provides a wide variety of services and regulation related to workers' compensation and safety.

Workers' Compensation Regulation Bureau

The **Carrier Compliance Unit** monitors compliance of private workers' compensation carriers (Plan 2). The unit also licenses professional employer organizations and processes extraterritorial agreements.

The **Contractor Registration Unit** ensures construction businesses with employees register and are in compliance with workers' compensation requirements. The law provides protection from liability for workers' compensation claims for contractors who use the service of other registered construction contractors.

The **Independent Contractor Central Unit** issues decisions on employment relationships for the Department of Revenue, Labor Standards, Unemployment Insurance, Human Rights and Workers' Compensation. The unit also issues Independent Contractor (IC) Exemptions Certificates.

The **Medical Regulations Unit** develops fee schedules to provide an effective and equitable method of health care cost containment. Medical fee schedules are established by the unit and utilized by insurers to reimburse medical providers.

The **Self-Insurance Unit** administers the program for employers who elect to be self-insured for workers' compensation (Plan 1).

The **Subsequent Injury Fund Unit** certifies workers with permanent impairments or that have a substantial obstacle to obtaining employment. The unit administers the funds that are used to offset claim costs associated with subsequent injuries to these workers.

The **Uninsured Employers Fund Unit** makes sure employers and employees are protected under the Workers' Compensation Act. The unit enforces coverage requirements for all employers, pays benefits to injured workers whose employers did not have workers' compensation coverage, and manages the fund from which benefits are paid.

Workers' Compensation Claims Assistance Bureau

The **Claims Unit** ensures compliance with the Workers' Compensation Act relating to benefits and claims. The unit also regulates attorney fees and provides assistance to insurers, attorneys and injured workers.

The **Data Management Unit** ensures compliance with claims reporting standards, maintains the workers' compensation database system and provides a comprehensive annual report on workers' compensation to the governor and the legislature. In addition, the unit performs research on various workers' compensation topics.

The **Mediation Unit** provides an alternative method of resolving workers' compensation benefit disputes before the dispute goes to the Workers' Compensation Court. This is a mandatory, non-binding process.

Occupational Safety & Health Bureau

The **Occupational Safety & Health Bureau** conducts inspections of public employers, performs on-site consultations for private employers, and inspects coal mines and sand and gravel operations throughout the state. The Bureau provides safety and occupational health training for both public and private employers.

Workers' Compensation Market

Montana employers have three options for obtaining workers' compensation coverage for their employees.

Employers with sufficient cash reserves may qualify as self-insured (Plan 1), either individually or by joining with other employers in their industry to form a self-insured group. Montana currently has 33 individual self-insured employers, three private groups (123 employers) and five public groups (399 employers).

Employers may obtain coverage with private insurance companies (Plan 2) in the voluntary market. During calendar year 2008, there were 509 private insurance companies authorized to write workers' compensation insurance in Montana.

Employers can insure through Montana State Fund (Plan 3). Montana State Fund's role as the guaranteed market assures all Montana employers can provide workers' compensation insurance for their employees.

Premium collected by Plan 2 and Plan 3 insurers and the gross annual payroll paid by Plan 1 employers are reflected in the graphs and table below. Plan 1 employers (self-insured) do not pay insurance premiums and are therefore not included in Exhibit 3.2.

Exhibit 3.1
Gross Annual Payroll
Plan 1 - By Calendar Year

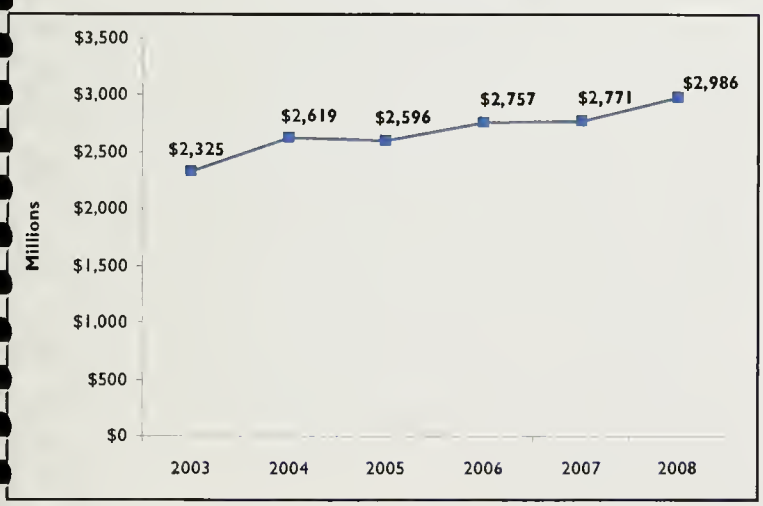


Exhibit 3.2
Premium Dollars
Plans 2 and 3 - By Calendar Year

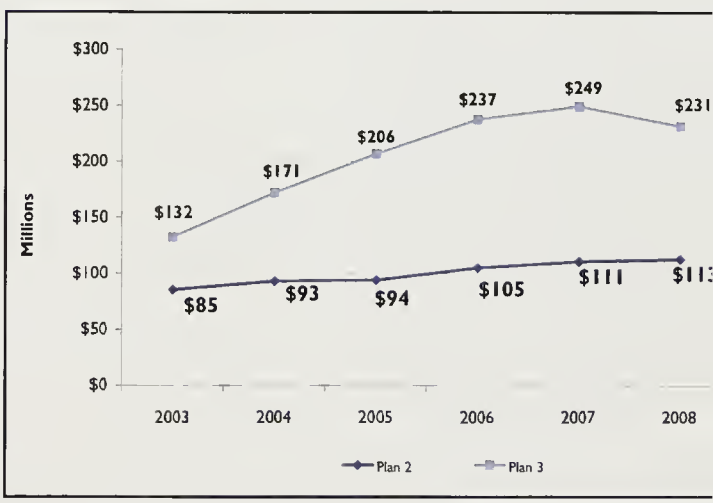


Exhibit 3.3
Market Share
By Plan Type[2] and Calendar Year

Calendar Year	2003	2004	2005	2006	2007	2008
Plan 1 - Payroll	$2,324,840,487	$2,618,537,774	$2,595,944,979	$2,756,533,153	$2,771,274,159	$2,985,918,770
Plan 2 - Premium	$85,081,186	$92,915,175	$93,774,300	$104,876,336	$110,601,722	$112,660,545
Plan 3 - Premium	$131,804,047	$171,439,374	$206,425,227	$237,137,186	$248,995,521	$231,192,059

[2] Plan Types: Plan 1 - Self- Insured Employers, Plan 2 - Private Insurance and Plan 3 - Montana State Fund.

Claim Statistics

Comparison of Claims by Plan Type

Injured Worker Characteristics

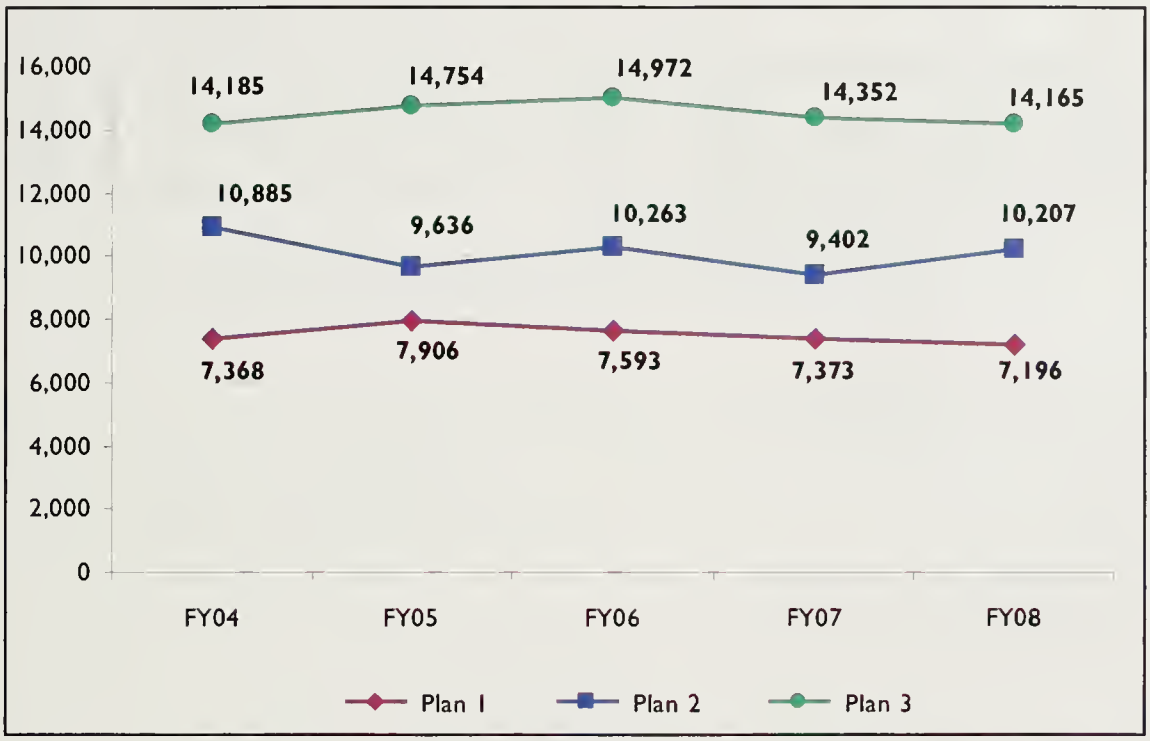
Insurer Denial of Claims

Fatal Occupational Injuries

Comparison of Claims by Plan Type

This section provides the most current summary available on reported claims through FY08. The information is based on First Reports of Injury and Occupational Disease received by the ERD. Both medical only and indemnity claims are included.

Exhibit 4.1
Reported Claims[1] - Five Year Trend
By Plan Type[2]



[1] Total reported claim counts may change over time due to the receipt of new injury reports or corrections to previous reporting.
[2] Plan types: Plan 1 - Self Insured Employers, Plan 2 - Private Insurance, Plan 3 - Montana State Fund.

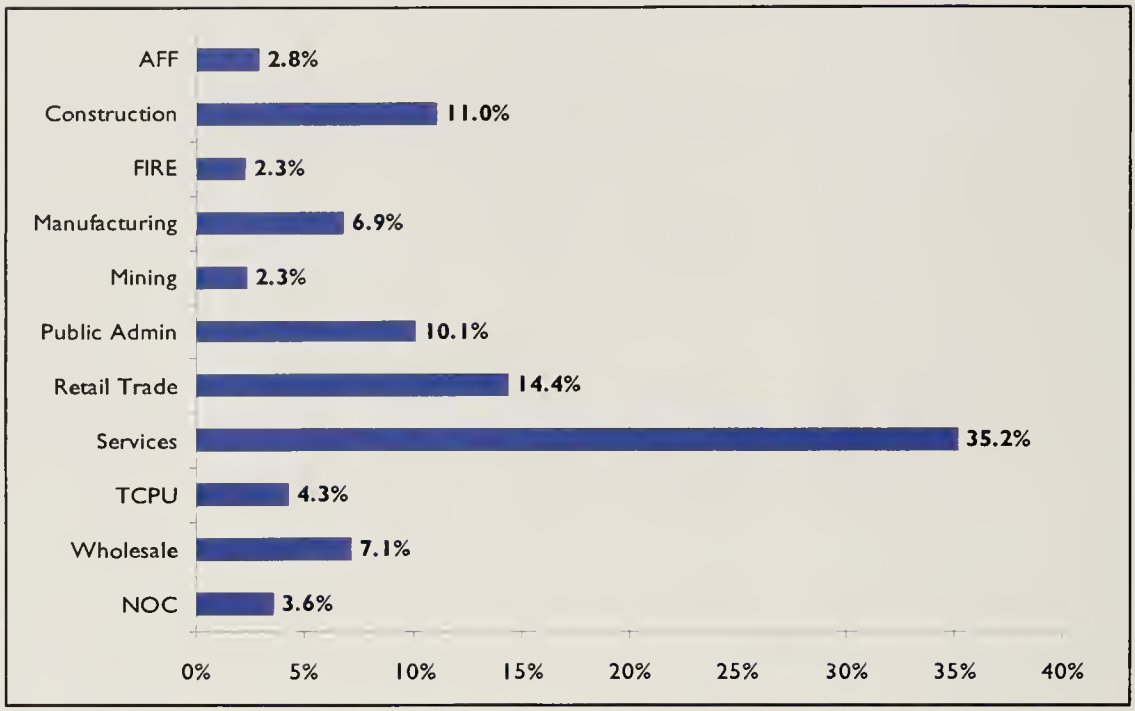
Exhibit 4.2
Reported Claims[3]
By Plan Type[4] and Fiscal Year of Injury

	FY04		FY05		FY06		FY07		FY08	
Plan Type	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	7,368	22.7%	7,906	24.4%	7,593	23.0%	7,373	23.6%	7,196	22.7%
Plan 2	10,885	33.5%	9,636	29.8%	10,263	31.2%	9,402	30.1%	10,207	32.3%
Plan 3	14,185	43.6%	14,754	45.6%	14,972	45.4%	14,352	46.0%	14,165	44.8%
UEF	69	0.2%	75	0.2%	119	0.4%	65	0.2%	73	0.2%
Total	*32,507*	*100%*	*32,371*	*100%*	*32,947*	*100%*	*31,192*	*100%*	*31,641*	*100%*

[3] Total reported claim counts may change over time due to the receipt of new injury reports or corrections to previous reporting.
[4] Plan types: Plan 1 - Self Insured Employers, Plan 2 - Private Insurance, Plan 3 - Montana State Fund, UEF - Uninsured Employers Fund.

Injured Worker Characteristics

Exhibit 4.3
Reported Claims - FY08
By Standard Industrial Classification Major Groups[5]



[5] Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987.*
AFF: Agriculture, Forestry and Fishing.
FIRE: Finance, Insurance and Real Estate.
TCPU: Transportation, Communication and Public Utilities.
NOC: Not Otherwise Classified.

Exhibit 4.4
Reported Claims[6]
By Standard Industrial Classification Major Groups[7] and Fiscal Year of Injury

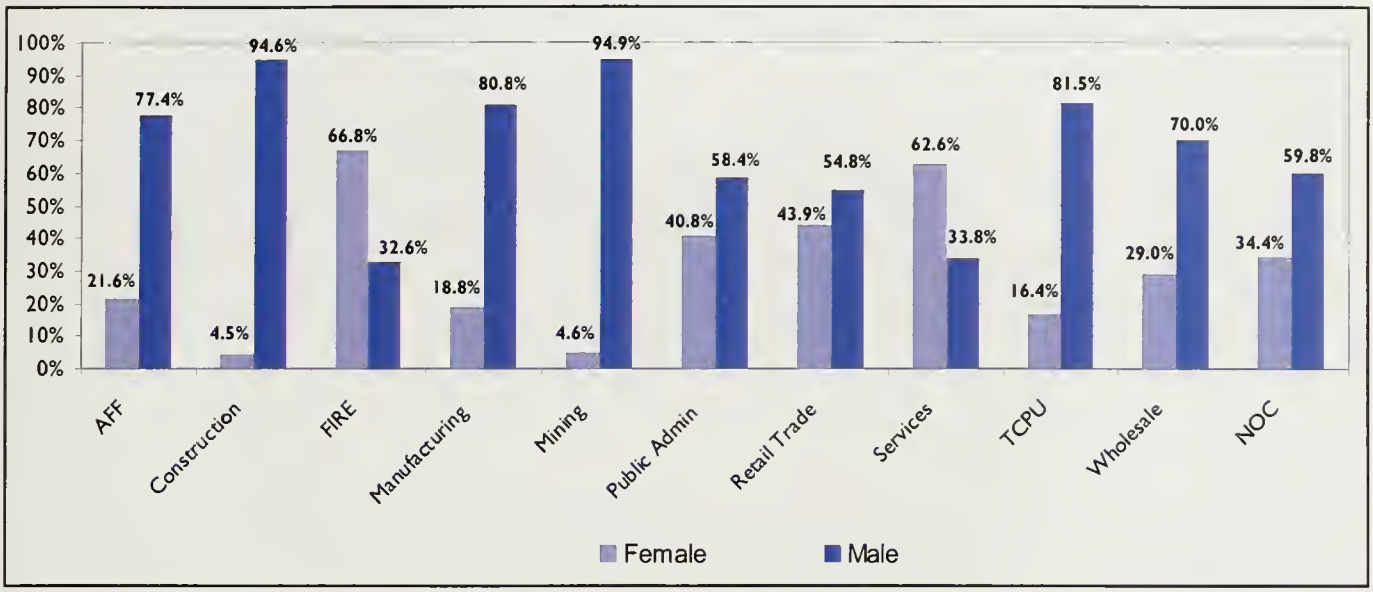
	FY04		FY05		FY06		FY07		FY08	
Standard Industrial Classification	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**
Agriculture, Forestry & Fishing	1,220	3.8%	1,314	4.1%	1,199	3.6%	1,065	3.4%	901	2.8%
Construction	3,028	9.3%	3,142	9.7%	3,682	11.2%	3,562	11.4%	3,496	11.0%
Finance, Insurance & Real Estate	804	2.5%	771	2.4%	801	2.4%	669	2.1%	720	2.3%
Manufacturing	2,370	7.3%	2,328	7.2%	2,465	7.5%	2,224	7.1%	2,168	6.9%
Mining	745	2.3%	841	2.6%	853	2.6%	872	2.8%	741	2.3%
Public Administration	3,335	10.3%	3,550	11.0%	3,524	10.7%	3,042	9.8%	3,199	10.1%
Retail Trade	5,121	15.8%	4,608	14.2%	4,373	13.3%	4,281	13.7%	4,561	14.4%
Services	9,949	30.6%	10,546	32.6%	10,880	33.0%	10,736	34.4%	11,123	35.2%
Transportation, Communication & Public Utilities	1,472	4.5%	1,446	4.5%	1,543	4.7%	1,382	4.4%	1,345	4.3%
Wholesale Trade	1,980	6.1%	2,116	6.5%	2,225	6.8%	2,257	7.2%	2,256	7.1%
NOC (Not Otherwise Classified)	2,483	7.6%	1,709	5.3%	1,402	4.3%	1,102	3.5%	1,131	3.6%
Total	***32,507***	***100%***	***32,371***	***100%***	***32,947***	***100%***	***31,192***	***100%***	***31,641***	***100%***

[6] Counts may vary slightly from previous reports due to corrections from insurers or ERD's data quality efforts.
[7] Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987.*

Exhibit 4.5

Reported Claims - FY08

By Standard Industrial Classification Major Groups[8] and Gender



[8] Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987.*

AFF: Agriculture, Forestry and Fishing.
FIRE: Finance, Insurance and Real Estate.
TCPU: Transportation, Communication and Public Utilities.
NOC: Not Otherwise Classified.

Exhibit 4.6

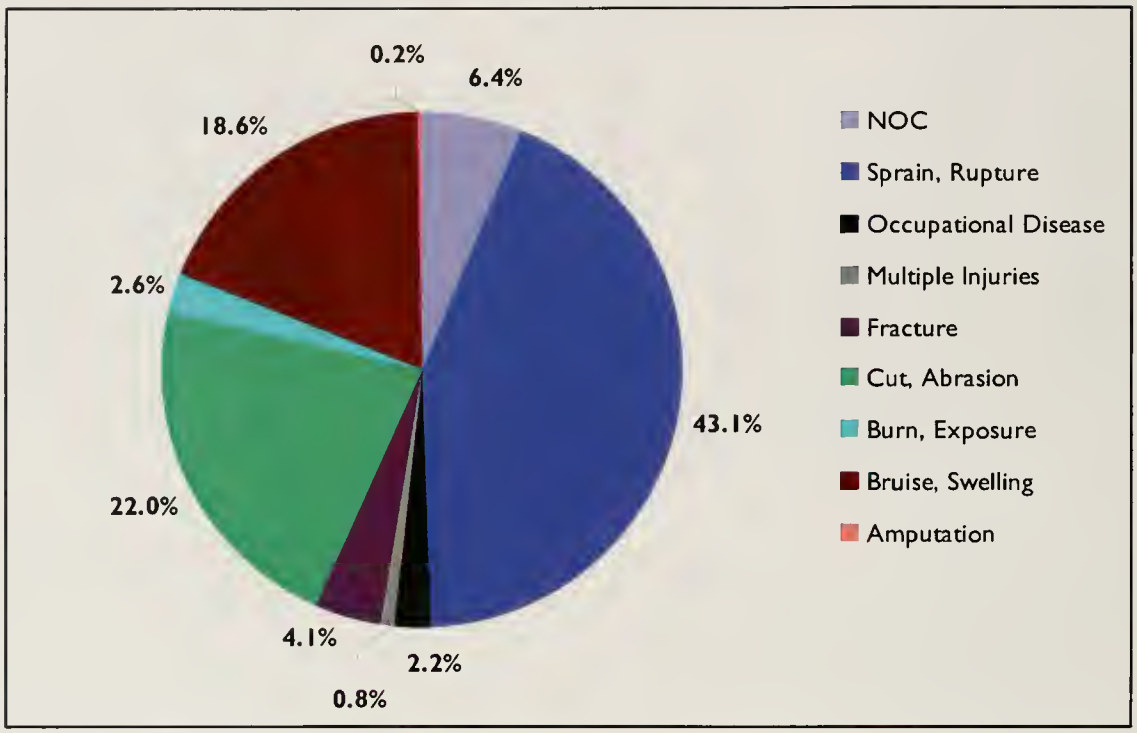
Reported Claims - FY08

By Standard Industrial Classification Major Groups[9] and Gender

	Female		Male		Not Reported		Total	
Standard Industrial Classification	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**
Agriculture, Forestry & Fishing	195	21.6%	697	77.4%	9	1.0%	901	100%
Construction	157	4.5%	3,308	94.6%	31	0.9%	3,496	100%
Finance, Insurance & Real Estate	481	66.8%	235	32.6%	4	0.6%	720	100%
Manufacturing	407	18.8%	1,751	80.8%	10	0.5%	2,168	100%
Mining	34	4.6%	703	94.9%	4	0.5%	741	100%
Public Administration	1,304	40.8%	1,867	58.4%	28	0.9%	3,199	100%
Retail Trade	2,004	43.9%	2,498	54.8%	59	1.3%	4,561	100%
Services	6,962	62.6%	3,764	33.8%	397	3.6%	11,123	100%
Transportation, Communication & Public Utilities	220	16.4%	1,096	81.5%	29	2.2%	1,345	100%
Wholesale Trade	654	29.0%	1,579	70.0%	23	1.0%	2,256	100%
NOC (Not Otherwise Classified)	389	34.4%	676	59.8%	66	5.8%	1,131	100%
Total	***12,807***	***40.5%***	***18,174***	***57.4%***	***660***	***2.1%***	***31,641***	***100%***

[9] Source: Office of Management and Budget, *Standard Industrial Classificatian Manual 1987.*

Exhibit 4.7
Reported Claims - FY08
By Nature of Injury[10]



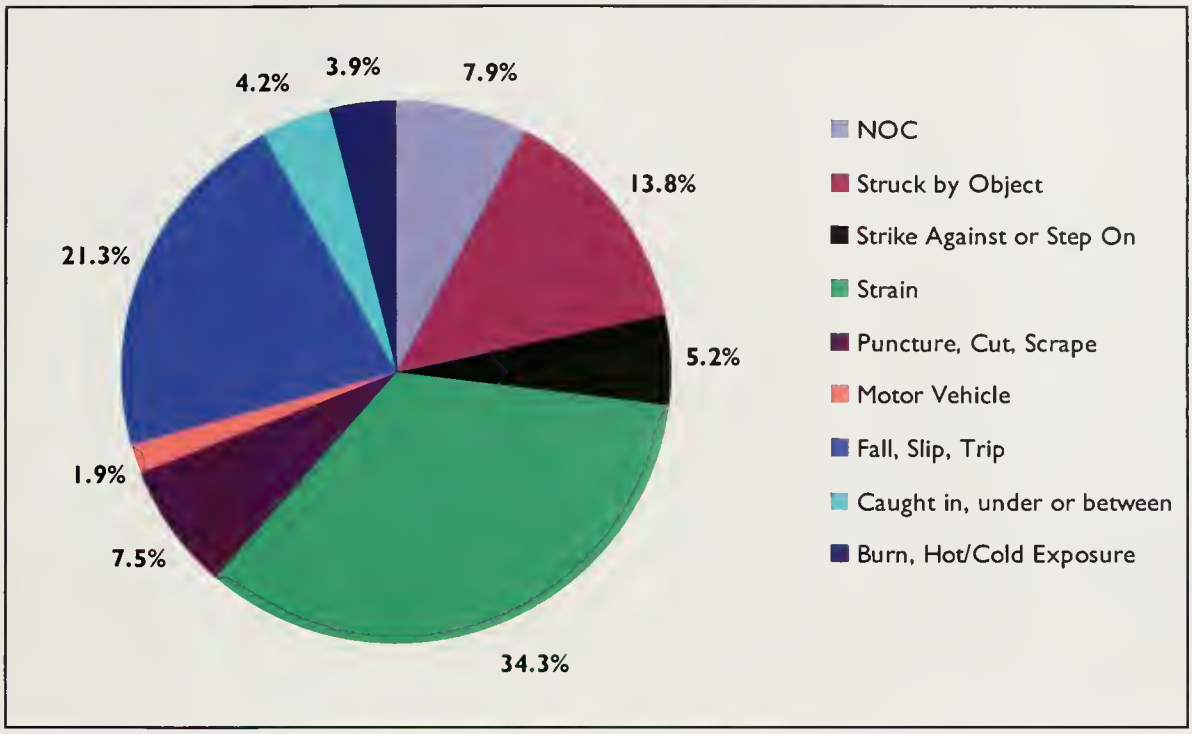
[10] Source : Workers' Compensation Insurance Organizations (WCIO).

Exhibit 4.8
Reported Claims
By Nature of Injury[11] and Fiscal Year of Injury

	FY04		FY05		FY06		FY07		FY08	
Nature of Injury	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**
Amputation	788	2.4%	830	2.6%	805	2.4%	552	1.8%	61	0.2%
Bruise, Swelling	5,462	16.8%	5,585	17.3%	5,878	17.8%	5,681	18.2%	5,900	18.6%
Burn, Exposure	823	2.5%	851	2.6%	849	2.6%	795	2.5%	829	2.6%
Cut, Abrasion	6,432	19.8%	6,264	19.4%	6,567	19.9%	6,522	20.9%	6,953	22.0%
Fracture	1,364	4.2%	1,335	4.1%	1,365	4.1%	1,284	4.1%	1,305	4.1%
Multiple Injuries	219	0.7%	219	0.7%	198	0.6%	161	0.5%	258	0.8%
Occupational Disease	1,665	5.1%	1,735	5.4%	1,502	4.6%	1,084	3.5%	684	2.2%
Sprain, Rupture	14,457	44.5%	14,079	43.5%	14,061	42.7%	13,359	42.8%	13,623	43.1%
NOC (Not Otherwise Classified)	1,297	4.0%	1,473	4.6%	1,722	5.2%	1,754	5.6%	2,028	6.4%
Total	***32,507***	***100%***	***32,371***	***100%***	***32,947***	***100%***	***31,192***	***100%***	***31,641***	***100%***

[11] Source: Workers' Compensation Insurance Organizations (WCIO).

Exhibit 4.9
Reported Claims - FY08
By Cause of Injury[12]



[12] Source : Workers' Compensation Insurance Organizations (WCIO).

Exhibit 4.10
Reported Claims
By Cause of Injury[13] and Fiscal Year of Injury

	FY04		FY05		FY06		FY07		FY08	
Cause of Injury	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**
Burn, Hot/Cold Exposure	1,319	4.1%	1,387	4.3%	1,389	4.2%	1,231	3.9%	1,227	3.9%
Caught in, under or between	1,519	4.7%	1,489	4.6%	1,521	4.6%	1,366	4.4%	1,318	4.2%
Fall, Slip, Trip	6,039	18.6%	5,900	18.2%	6,280	19.1%	6,410	20.6%	6,730	21.3%
Motor Vehicle	641	2.0%	571	1.8%	690	2.1%	797	2.6%	595	1.9%
Puncture, Cut, Scrape	2,147	6.6%	2,206	6.8%	2,816	8.5%	3,926	12.6%	2,387	7.5%
Strain	9,652	29.7%	9,769	30.2%	9,408	28.6%	8,065	25.9%	10,865	34.3%
Strike Against or Step On	2,008	6.2%	1,808	5.6%	1,889	5.7%	1,648	5.3%	1,655	5.2%
Struck by Object	4,563	14.0%	4,655	14.4%	4,592	13.9%	4,282	13.7%	4,380	13.8%
NOC (Not Otherwise Classified)	4,619	14.2%	4,586	14.2%	4,362	13.2%	3,467	11.1%	2,484	7.9%
Total	***32,507***	***100%***	***32,371***	***100%***	***32,947***	***100%***	***31,192***	***100%***	***31,641***	***100%***

[13] Source: Workers' Compensation Insurance Organizations (WCIO).

Exhibit 4.11

Reported Claims - FY08

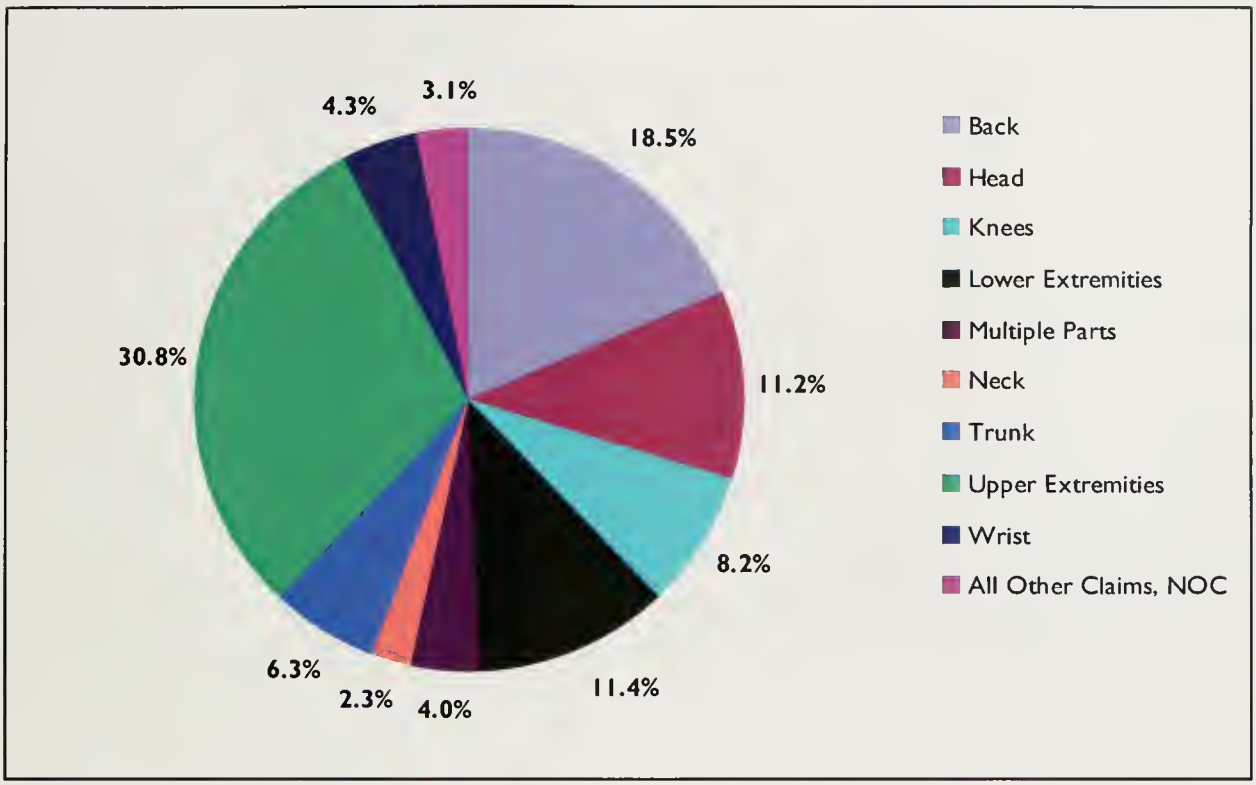
By Standard Industrial Classification Major Groups[14] and Nature of Injury[15]

Nature of Injury	Burn Exposure	Caught in or Between	Puncture, Cut By	Fall, Slip, Trip	Vehicle Related	Strain, Jump, Lift	Hit Against, Step on	Struck by	All Others	NOC	Totals
Agriculture, Forestry & Fishing	2.6%	8.8%	2.7%	21.3%	4.8%	25.6%	6.9%	21.6%	5.2%	0.6%	100%
Construction	2.5%	5.1%	7.3%	18.2%	1.2%	34.3%	5.6%	16.1%	9.2%	0.5%	100%
Finance, Insurance & Real Estate	2.6%	2.2%	4.3%	31.1%	1.5%	38.2%	4.6%	8.9%	5.6%	1.0%	100%
Manufacturing	4.2%	6.7%	8.3%	12.1%	0.9%	37.7%	6.5%	12.8%	10.4%	0.5%	100%
Mining	5.1%	8.6%	4.7%	13.9%	2.8%	37.1%	4.5%	13.5%	9.3%	0.4%	100%
Public Administration	5.6%	3.3%	4.2%	21.6%	4.3%	32.1%	4.3%	16.1%	8.3%	0.2%	100%
Retail Trade	3.9%	4.0%	9.8%	18.4%	0.9%	38.0%	6.4%	12.1%	6.4%	0.2%	100%
Services	3.8%	3.2%	8.0%	25.4%	1.4%	33.0%	4.5%	13.4%	6.9%	0.4%	100%
Transportation, Communication & Public Utilities	3.4%	4.5%	3.1%	22.5%	5.7%	37.3%	5.6%	11.4%	5.6%	1.0%	100%
Wholesale Trade	4.9%	3.6%	10.5%	19.5%	1.4%	34.4%	5.5%	12.9%	6.0%	1.4%	100%
NOC (Not Otherwise Classified)	2.9%	4.2%	10.2%	18.7%	1.3%	32.1%	4.9%	16.1%	7.3%	2.2%	100%
Total	***3.9%***	***4.2%***	***7.5%***	***21.3%***	***1.9%***	***34.3%***	***5.2%***	***13.8%***	***7.3%***	***0.5%***	***100%***

[14] Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987.*

[15] Source: Workers Compensation Insurance Organizations (WCIO).

Exhibit 4.12
Reported Claims - FY08
By Part of Body[16]



[16] Source: Workers' Compensation Insurance Organizations (WCIO).

Exhibit 4.13
Reported Claims
By Part of Body[17] and Fiscal Year of Injury

	FY04		FY05		FY06		FY07		FY08	
Part of Body	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**	**Count**	**Percent**
Back	6,597	20.3%	6,537	20.2%	6,622	20.1%	6,039	19.4%	5,847	18.5%
Head	3,662	11.3%	3,544	10.9%	3,791	11.5%	3,400	10.9%	3,530	11.2%
Knees	2,566	7.9%	2,435	7.5%	2,489	7.6%	2,428	7.8%	2,604	8.2%
Lower Extremities	3,445	10.6%	3,550	11.0%	3,587	10.9%	3,538	11.3%	3,598	11.4%
Multiple Parts	1,372	4.2%	1,659	5.1%	1,420	4.3%	1,339	4.3%	1,260	4.0%
Neck	812	2.5%	786	2.4%	759	2.3%	744	2.4%	733	2.3%
Trunk	2,100	6.5%	2,144	6.6%	2,077	6.3%	2,052	6.6%	1,991	6.3%
Upper Extremities	10,143	31.2%	9,930	30.7%	10,447	31.7%	9,959	31.9%	9,748	30.8%
Wrist	1,625	5.0%	1,532	4.7%	1,553	4.7%	1,438	4.6%	1,358	4.3%
All Other Claims, NOC (Not Otherwise Classified)	185	0.6%	254	0.8%	202	0.6%	255	0.8%	972	3.1%
Total	***32,507***	***100%***	***32,371***	***100%***	***32,947***	***100%***	***31,192***	***100%***	***31,641***	***100%***

[17] Source: Workers' Compensation Insurance Organizations (WCIO).

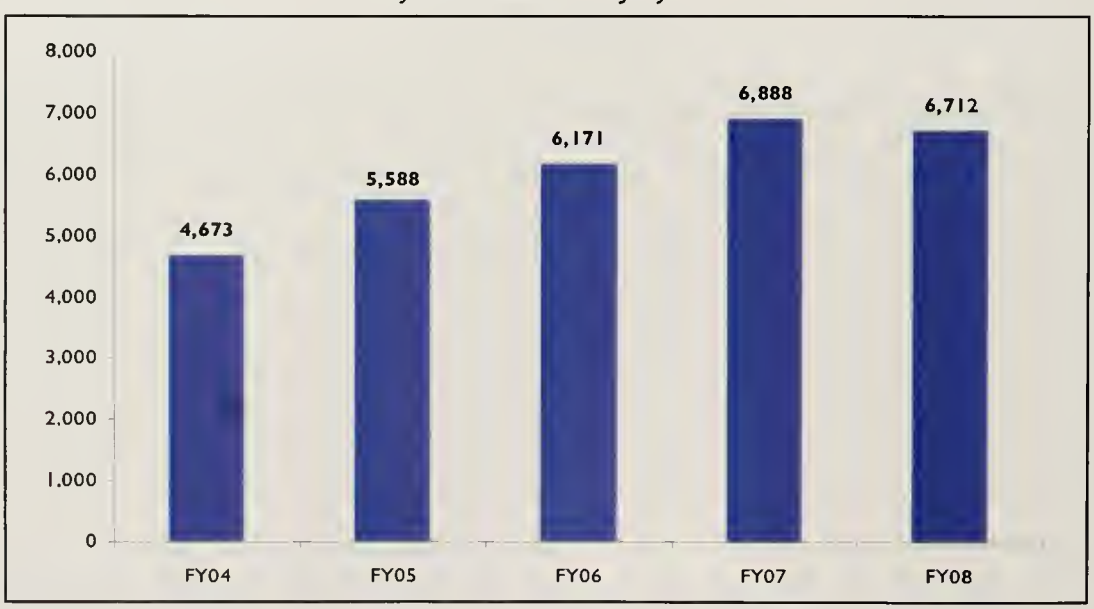
Insurer Denial of Claims

Exhibit 4.14
Insurer Denial of Claims[18]
By Reason of Denial and Fiscal Year of Injury

Reason for Claim Denial		FY04	FY05	FY06	FY07	FY08
Coverage Issue	Corporate officer rejected	3	5	0	0	2
	Elects no coverage	3	1	4	1	0
	Independent Contractor issue	2	3	1	0	2
	Question which insurer liable	20	14	8	12	4
	No coverage	23	14	51	25	20
Definition of Injury	Heart attack - not caused by accident	16	23	4	3	8
	Does not meet definition of injury	313	521	323	322	335
	Does not meet definition of Occupational Disease	77	73	42	42	39
	Stress - not compensable	28	19	20	15	14
Insufficient Information	Incomplete or missing information necessary to accept liability	52	101	155	119	371
Late Claim Filing	Injury	95	80	134	224	47
	Occupational Disease	0	0	1	1	0
No Employer Notice	No 30-day notice to employer or insurer	204	206	176	118	192
Not in Course & Scope	Not in course and scope of employment	368	410	426	448	398
No Objective Medical	No objective medical findings to substantiate injury	3,057	3,654	4,380	5,161	4,801
Other	Other	412	464	446	397	479
Total		***4,673***	***5,588***	***6,171***	***6,888***	***6,712***

[18] The insurer may later accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available.

Exhibit 4.15
Insurer Denial of Claims[19]
By Fiscal Year of Injury



[19] The insurer may later accept claims initially denied. Statistics on accepted injuries subsequent to a denial are not currently available.

Fatal Occupational Injuries - 2007

An excerpt from the 2007 Census of Fatal Occupational Injuries[20]

Thousands of workers in Montana are injured each year in work-related accidents. Some of these accidents result in death. Many of the accidents could have been avoided if the employers and employees involved took proper safety measures to prevent them.

The Safety Culture Act enacted by the 1993 Montana State Legislature encourages workers and employers to come together to create and implement a workplace safety philosophy. It is the intent of the act to raise workplace safety to a preeminent position in the minds of all Montana's workers and employers.

Therefore, it is the responsibility and duty of employers to participate in the development and implementation of safety programs that will meet the specific needs of their workplace; thereby establishing a safety culture that will help create a safe work environment for all future generations of Montanans.

This report provides information gathered by the Census of Fatal Occupational Injuries (CFOI) program, Research and Analysis Bureau, Montana Department of Labor and Industry, in cooperation with Bureau of Labor Statistics, U.S. Department of Labor, on fatal occupational injuries that occurred in Montana during 2007. The CFOI program is a census, meaning all cases meeting program definitions are included.

The Occupational Safety and Health Act of 1970, Title 29, Part 1904 of the Code of Federal Regulations states:

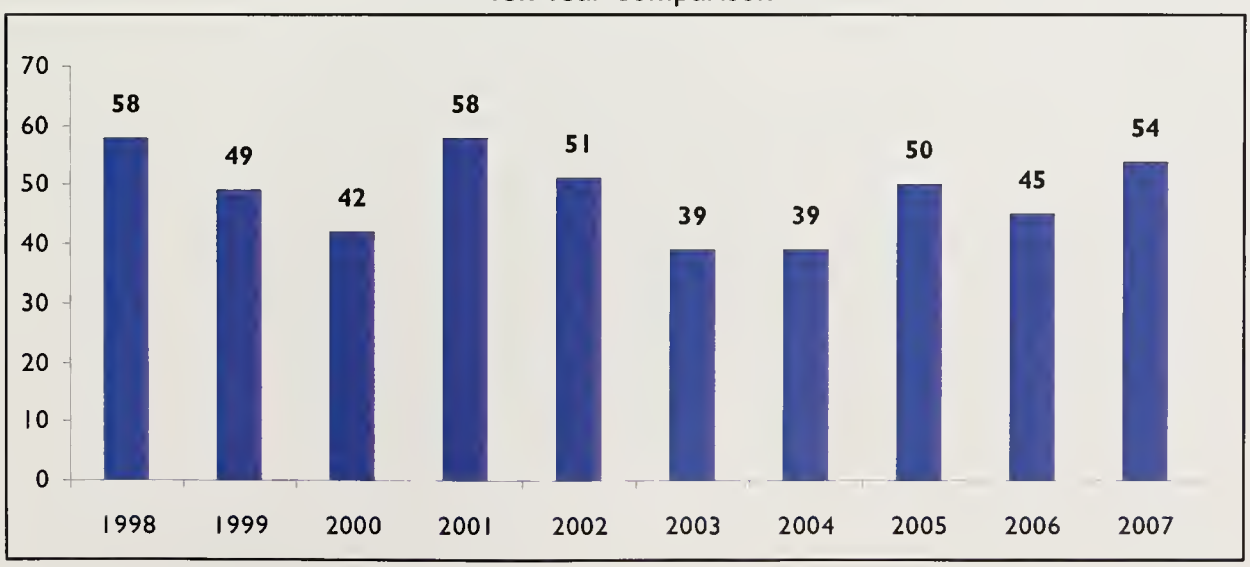
"Within 8 hours after the occurrence of an employment accident which is fatal to one or more employees, or which results in hospitalization of three or more employees, the employer of any employees so injured or killed shall report the accident either orally or in writing to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor."

Summary

Overall, there were a total of 54 job-related fatalities in Montana in 2007.

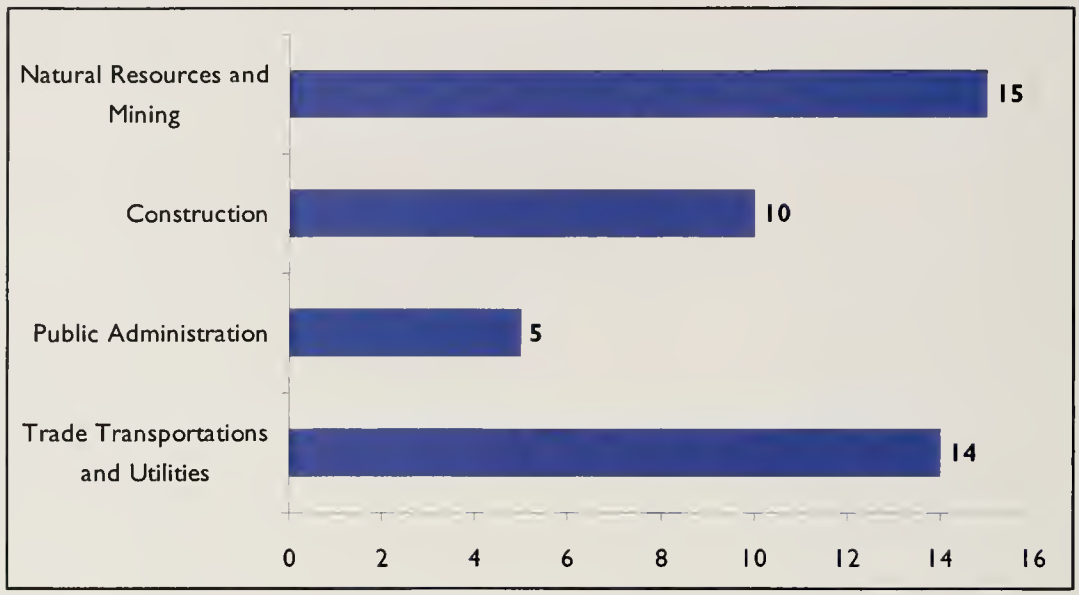
The following chart shows number of Occupational Fatalities per year, for ten years.

Exhibit 4.16
Ten Year Comparison



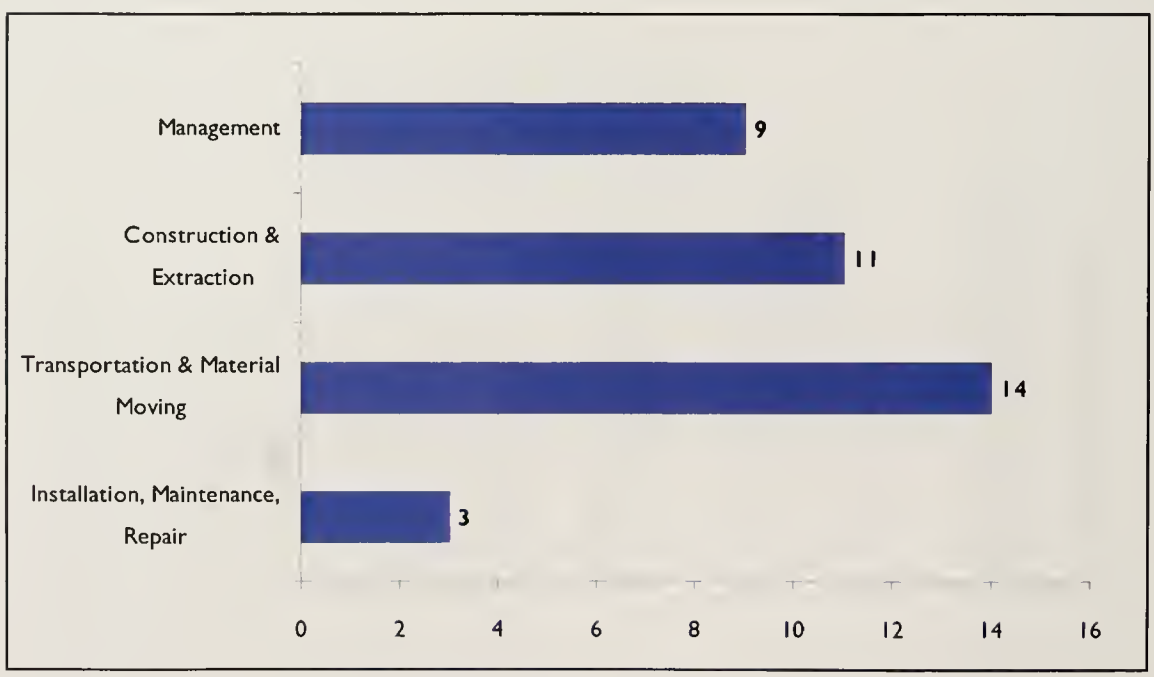
[20] This report was published by the DLI Research and Analysis Bureau. The Complete report may be viewed at: http://www.ourfactsyourfuture.org/ under 'Publications and Articles."

Exhibit 4.17
Fatal Work Injuries in Selected Industries
Montana 2007



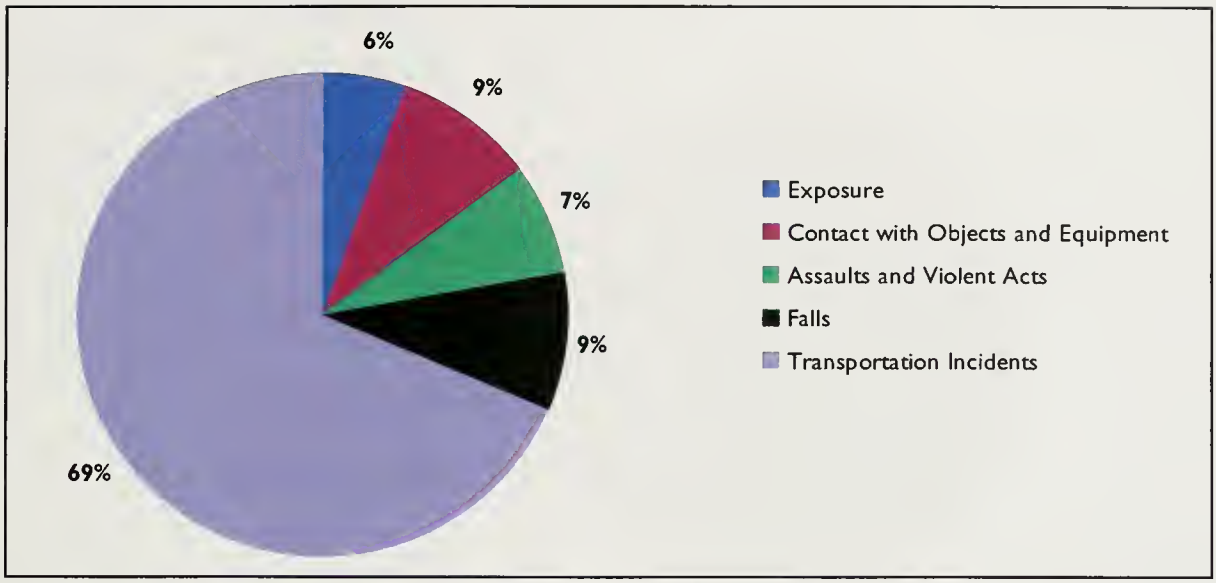
Number of Fatalities in 2007 - 54
Total includes data for Fatalities not shown separately, that do not meet publication criteria.

Exhibit 4.18
Occupations with the Largest Number of Fatalities
Montana 2007



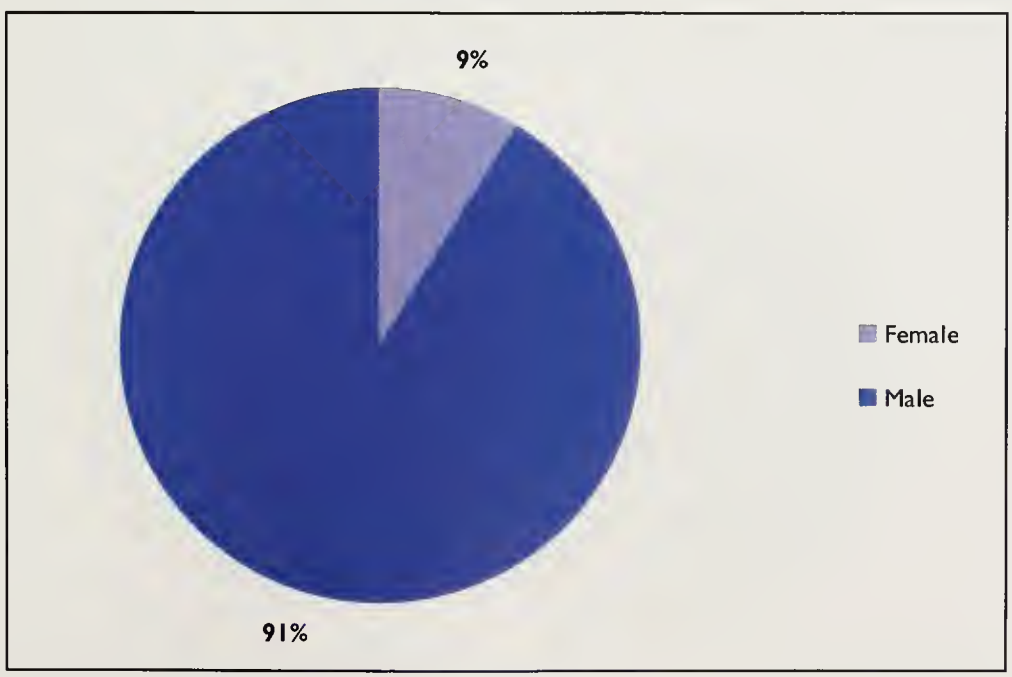
Number of Fatalities in 2007 - 54
Total includes data for Fatalities not shown separately, that do not meet publication criteria.

Exhibit 4.19
Workplace Fatalities by Event or Exposure
Montana 2007



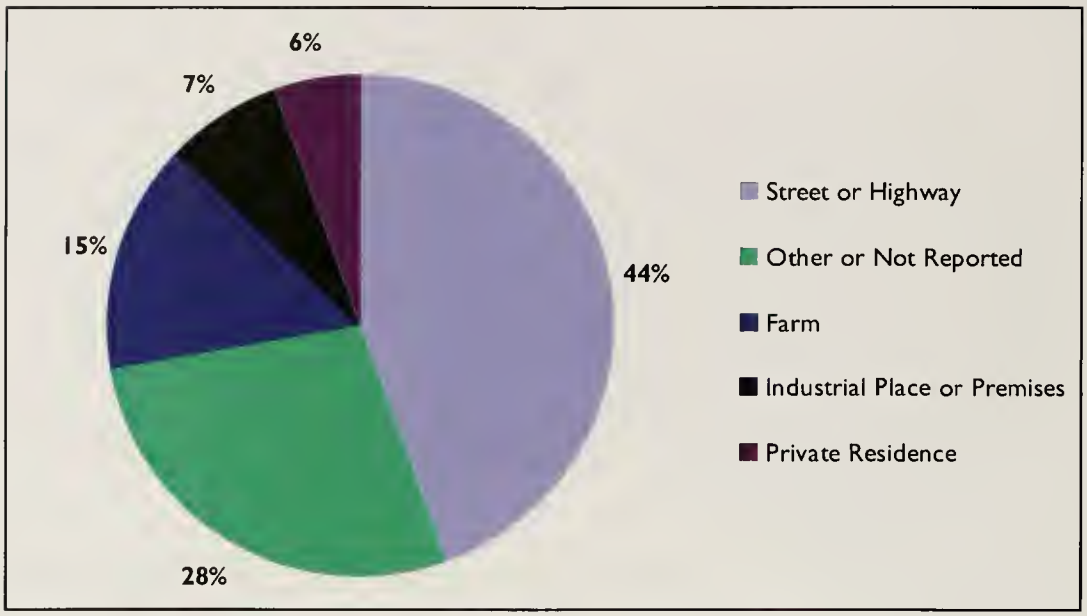
Number of Fatalities in 2007 - 54
Total includes data for Fatalities not shown separately, that do not meet publication criteria.

Exhibit 4.20
Occupational Fatalities by Gender
Montana 2007



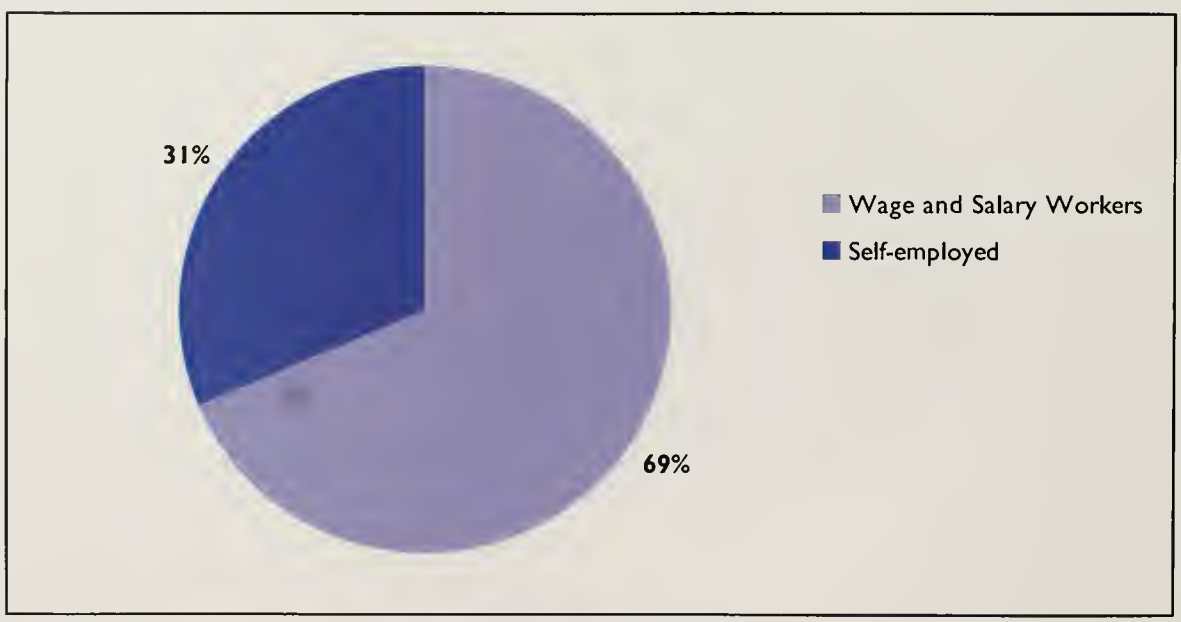
Number of Fatalities in 2007 - 54
Total includes data for Fatalities not shown separately, that do not meet publication criteria.

Exhibit 4.21
Fatal Work Injuries by Location
Montana 2007



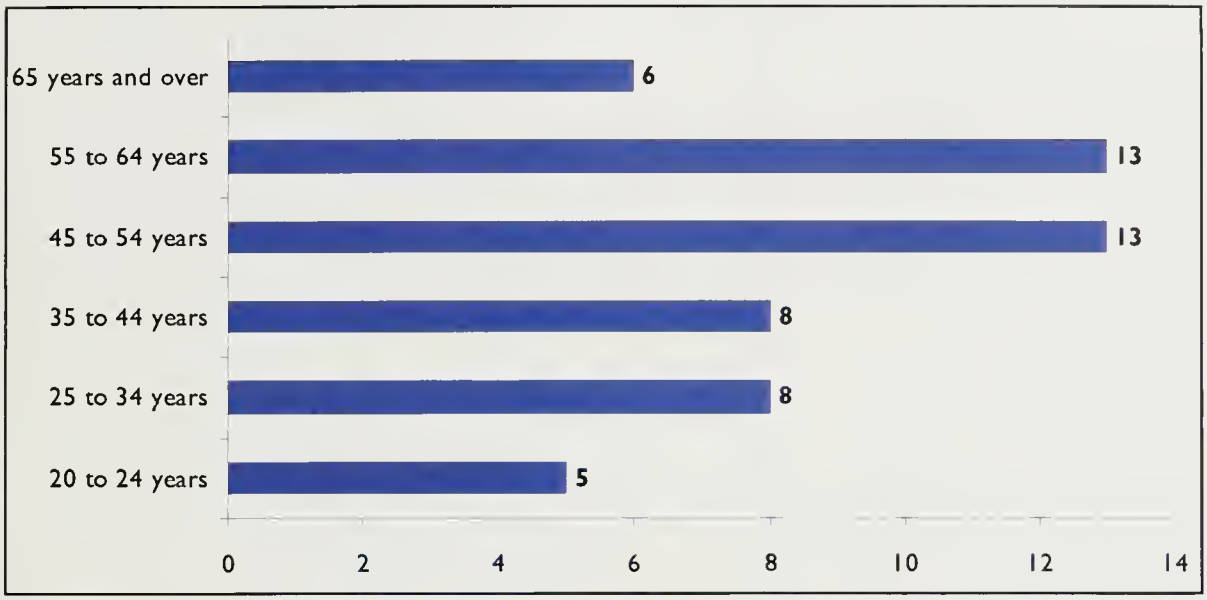
Number of Fatalities in 2007 - 54
Total includes data for Fatalities not shown separately, that do not meet publication criteria.

Exhibit 4.22
Occupational Fatalities by Employee Status
Montana 2007



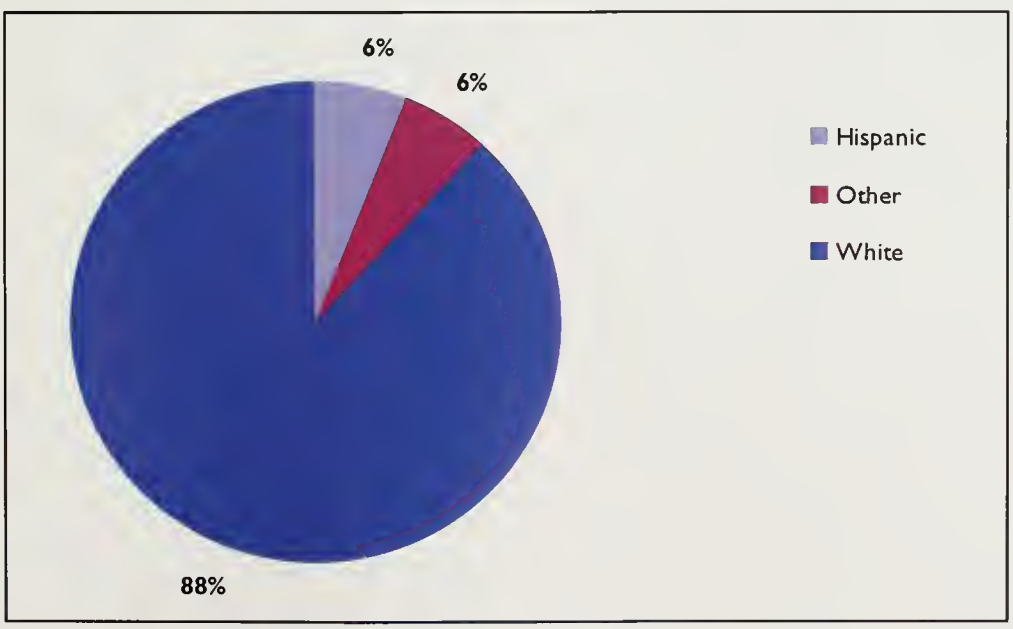
Number of Fatalities in 2007 - 54
Total includes data for Fatalities not shown separately, that do not meet publication criteria.

Exhibit 4.23
Occupational Fatalities by Age
Montana 2007



Number of Fatalities in 2007 - 54
Total includes data for Fatalities not shown separately, that do not meet publication criteria.

Exhibit 4.24
Occupational Fatalities by Race
Montana 2007



Number of Fatalities in 2007 - 54
Total includes data for Fatalities not shown separately, that do not meet publication criteria.

Benefits

Total Benefits

Benefit Distribution

Settlement Dollars

Injured Worker Attorney Fees

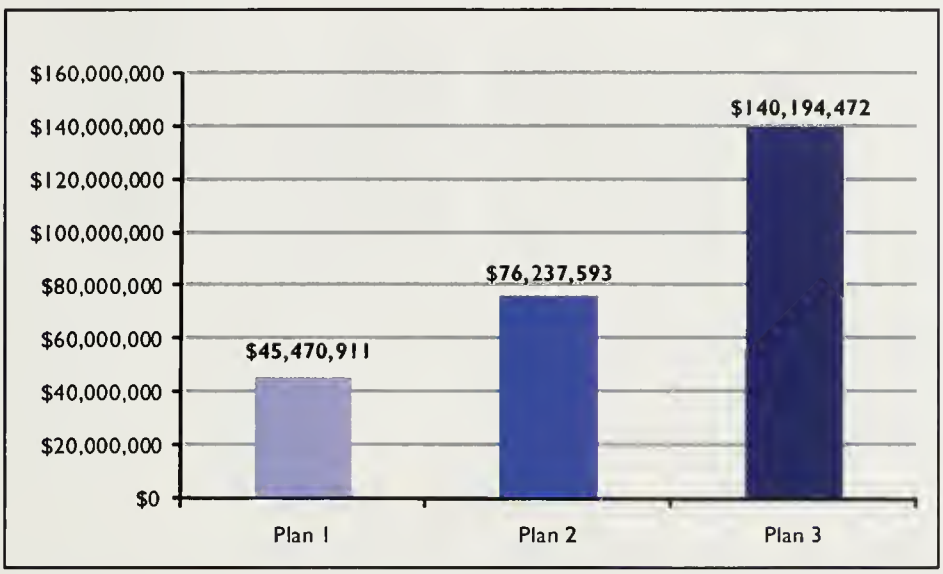
Insurer Legal Expenses

Total Benefits

The information below is compiled from expenditure reports submitted to DLI by workers' compensation insurers and claims administrators. The dollar amounts provided below are the total dollars insurers reported they paid in a fiscal year for indemnity and medical benefits regardless of dates of injury.

The dollar amounts are not based on claim year or the date of the injury. Readers should be aware that prior years' benefit totals may have been updated since the publication of previous annual reports due to the receipt of amended expenditure reports.

Exhibit 5.1
Total Benefits Paid - FY08
By Plan Type[1]



[1] Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund.

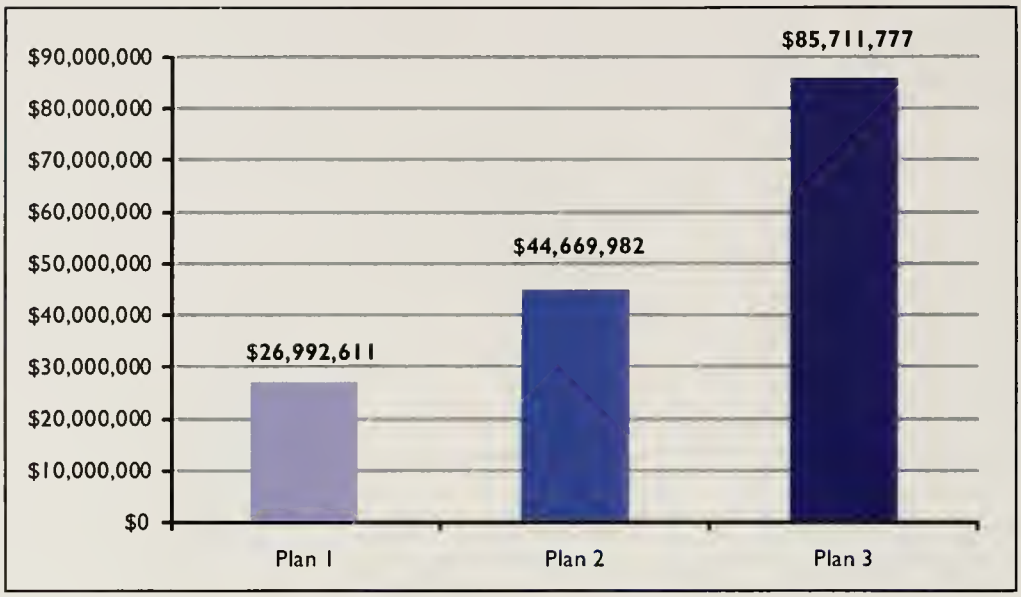
Exhibit 5.2
Total Benefits Paid
By Plan Type[2] and Fiscal Year of Payment

Plan Type	FY04	FY05	FY06	FY07	FY08
Plan 1	39,012,274	40,431,805	41,978,979	44,905,337	45,470,911
Plan 2	69,708,222	70,561,142	72,900,508	71,341,747	76,237,593
Plan 3	109,989,153	107,120,779	122,995,989	127,967,435	140,194,472
Total[3]	***$218,709,649***	***$218,113,726***	***$237,875,476***	***$244,214,519***	***$261,902,976***

[2] Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund.

[3] Total benefits paid represent indemnity and medical, from DLI Expenditure Reports as of August 3, 2009.

Exhibit 5.3
Medical Payments - FY08
By Plan Type[4]



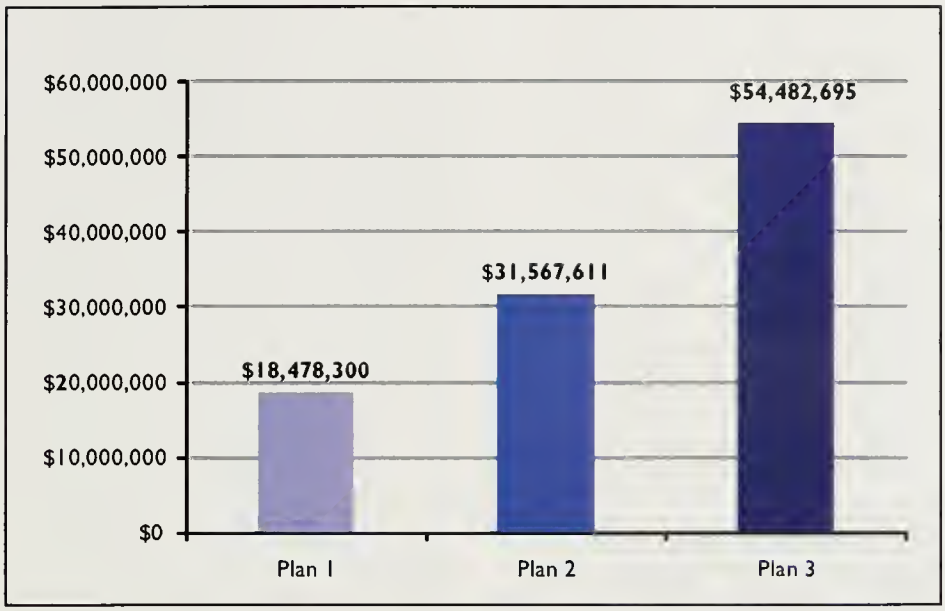
[4] Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund.

Exhibit 5.4
Medical Payments[5]
By Plan Type[6] and Fiscal Year of Payment

Plan Type	FY04	FY05	FY06	FY07	FY08
Plan 1	22,222,983	24,279,017	25,905,654	25,798,585	26,992,611
Plan 2	36,534,115	37,118,304	39,409,861	41,298,949	44,669,982
Plan 3	64,591,691	61,000,283	74,600,058	77,961,576	85,711,777
Total	***$123,348,789***	***$122,397,604***	***$139,915,573***	***$145,059,110***	***$157,374,370***

[5] Total represents medical payments including medical in excess of $200,000, from DLI Expenditure Reports as of August 3, 2009.
[6] Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund.

Exhibit 5.5
Indemnity Payments - FY08
By Plan Type[7]



[7] Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund.

Exhibit 5.6
Indemnity Payments[8]
By Plan Type[9] and Fiscal Year of Payment

Plan Type	FY04	FY05	FY06	FY07	FY08
Plan 1	16,789,291	16,152,788	16,073,325	19,106,752	18,478,300
Plan 2	33,174,107	33,442,838	33,490,647	30,042,798	31,567,611
Plan 3	45,397,462	46,120,496	48,395,931	50,005,859	54,482,695
Total[10]	***$95,360,860***	***$95,716,122***	***$97,959,903***	***$99,155,409***	***$104,528,606***

[8] Any payment made directly to the worker (or the worker's beneficiaries), other than a medical benefit. The term includes payments made pursuant to a reservation of rights, or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging. ARM 24.29.4303(4)
[9] Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund.
[10] Total benefits represent indemnity payments, from DLI Quarterly Expenditure Reports as of August 3, 2009.

Benefit Distribution

ERD compiles information on wage loss, medical, and vocational rehabilitation benefits paid to injured workers. This section is intended to display data regarding the amount and costs of developing wage loss claims. Payment data on medical only claims is not included in this section. Data is presented in tables, which display claim counts, average annual benefits, average total benefits and the percentage of claims reaching annual time periods for subsequent fiscal years, starting in FY 2001.

- Exhibits 5.7, 5.8 and 5.9 report total wage loss benefits, total medical benefits, and total benefits.
- Exhibits 5.10 through 5.13 report indemnity benefits individually by the four primary categories: temporary total disability (TTD), temporary partial disability (TPD), permanent partial disability (PPD), and permanent total disability (PTD).
- Exhibits 5.14 through 5.16 report medical benefits individually by the three primary categories (excluding lump sum payments): payments to physicians, hospital costs, and other medical provider costs.
- Exhibit 5.17 reports lump sum payments of medical benefits.
- Exhibit 5.18 reports vocational rehabilitation benefits paid.

Each table consists of eight rows of data; each row holds information pertaining only to injuries sustained during the fiscal year shown in the "Injury Year" column. The "YR1" column presents the number of claims receiving the given benefit type(s) within one year of the date on which the injury occurred, the average yearly benefit in that year, the average total benefit (the average accumulated benefit over time) and the percentage of claims with benefits paid in the first year. The YR2 through YR8 columns report statistics for claims that received benefits in those years from the date of injury.

A detailed explanation, including an example, of the development and use of these benefit statistics is provided in the methodology section of the appendices. Readers should be aware that due to enhancements in the reporting and methodology, comparisons to previous annual reports may not be valid.

Exhibit 5.7
Total Wage Loss: TTD, TPD, PTD, PPD, including Lump Sums

Injury Year	Category	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8
2001	Claims	4,401	1,701	869	543	374	201	114	82
	Average Yearly Benefits	$5,738	$10,664	$13,229	$13,918	$12,836	$12,115	$12,130	$7,750
	Average Total Benefits	$5,738	$19,522	$34,708	$49,595	$58,053	$76,167	$96,590	$103,111
	Percent	90.7	35.0	17.9	11.2	7.7	4.1	2.3	1.7
2002	Claims	4,392	1,815	899	532	324	169	101	
	Average Yearly Benefits	$5,786	$11,028	$13,018	$12,655	$11,795	$10,153	$9,869	
	Average Total Benefits	$5,786	$19,796	$34,410	$46,960	$60,209	$75,246	$83,964	
	Percent	89.9	37.1	18.4	10.9	6.6	3.5	2.1	
2003	Claims	4,695	1,897	894	461	257	149		
	Average Yearly Benefits	$6,054	$12,129	$13,802	$12,674	$13,165	$10,356		
	Average Total Benefits	$6,054	$21,607	$38,106	$54,224	$71,762	$85,317		
	Percent	91.0	36.8	17.3	8.9	5.0	2.9		
2004	Claims	4,899	1,757	708	351	172			
	Average Yearly Benefits	$5,651	$11,219	$12,122	$12,618	$12,174			
	Average Total Benefits	$5,651	$19,599	$35,436	$52,057	$65,544			
	Percent	92.0	33.0	13.3	6.6	3.2			
2005	Claims	4,640	1,512	607	320				
	Average Yearly Benefits	$8,202	$10,712	$12,403	$12,492				
	Average Total Benefits	$8,202	$27,603	$37,136	$50,836				
	Percent	93.7	30.5	12.3	6.5				
2006	Claims	4,508	1,332	558					
	Average Yearly Benefits	$5,479	$11,040	$13,069					
	Average Total Benefits	$5,479	$20,758	$34,398					
	Percent	93.9	27.8	11.6					
2007	Claims	4,212	1,175						
	Average Yearly Benefits	$5,594	$9,611						
	Average Total Benefits	$5,594	$19,493						
	Percent	95.0	26.5						
2008	Claims	4,182							
	Average Yearly Benefits	$4,430							
	Average Total Benefits	$4,430							
	Percent	98.4							

Exhibit 5.7 shows the claim counts, average yearly benefits, average total benefits, and claims percentages for the specified year. Year one represents statistics for claims in the year of injury, while years two through eight provide statistics for claims as they move beyond their injury years. For example, 4,854 total claims with dates of injury in FY2001 received wage loss benefits. Of these claims, 4,401 received wage loss benefits in Year 1 with an average benefit of $5,738. By year five, only 374 people injured in FY 2001 were still receiving wage loss benefits, at an average of $12,836 that year. The average total benefit (average total wage loss cost of the claim) was $58,053 at that point in time. The percentage of FY 2001 claims that still had benefits being paid in year five was 7.7% (374 of 4,854 claims).

Exhibit 5.7.1 graphically shows the change in average total wage loss benefits over time. In other words, it shows how claim costs (in terms of wage loss benefits) escalate as claims age. Exhibit 5.7.2 shows the percentages of claims receiving wage loss benefits in the specified year. In year five, approximately 7.7 percent of FY 2001 claims are still receiving wage replacement benefits.

Exhibit 5.7.1
Average Total Wage Loss Benefits

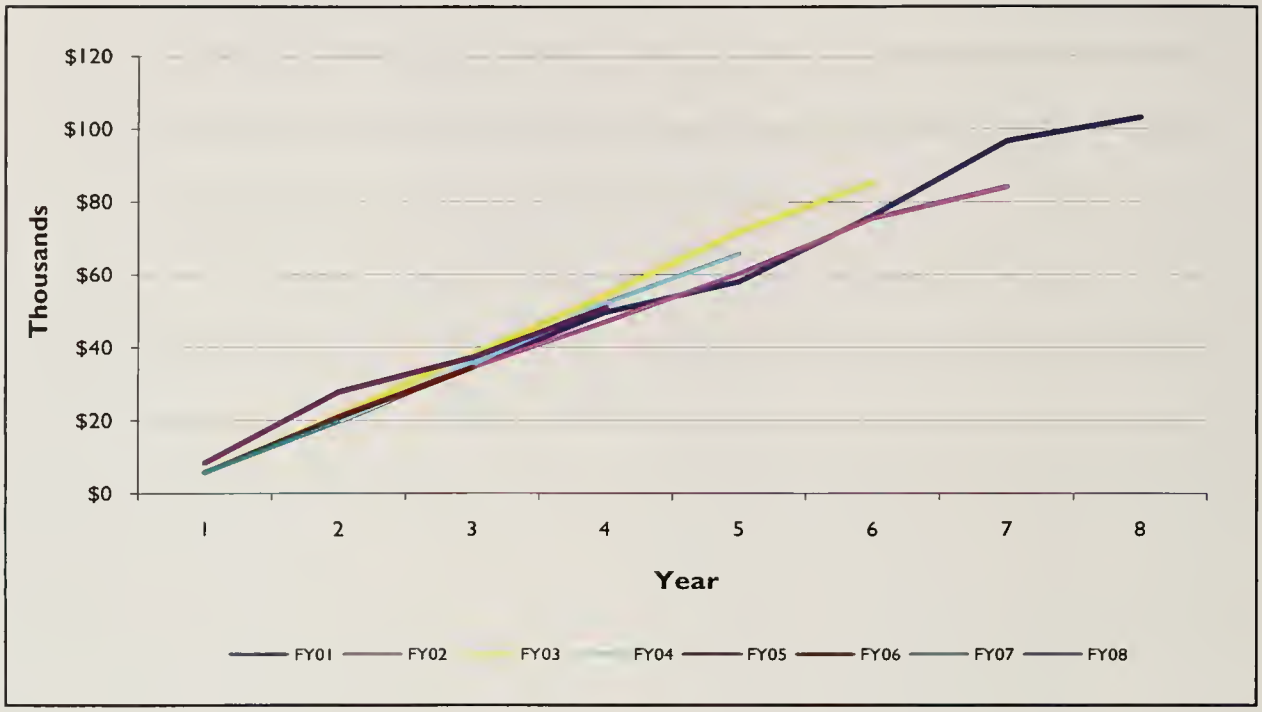
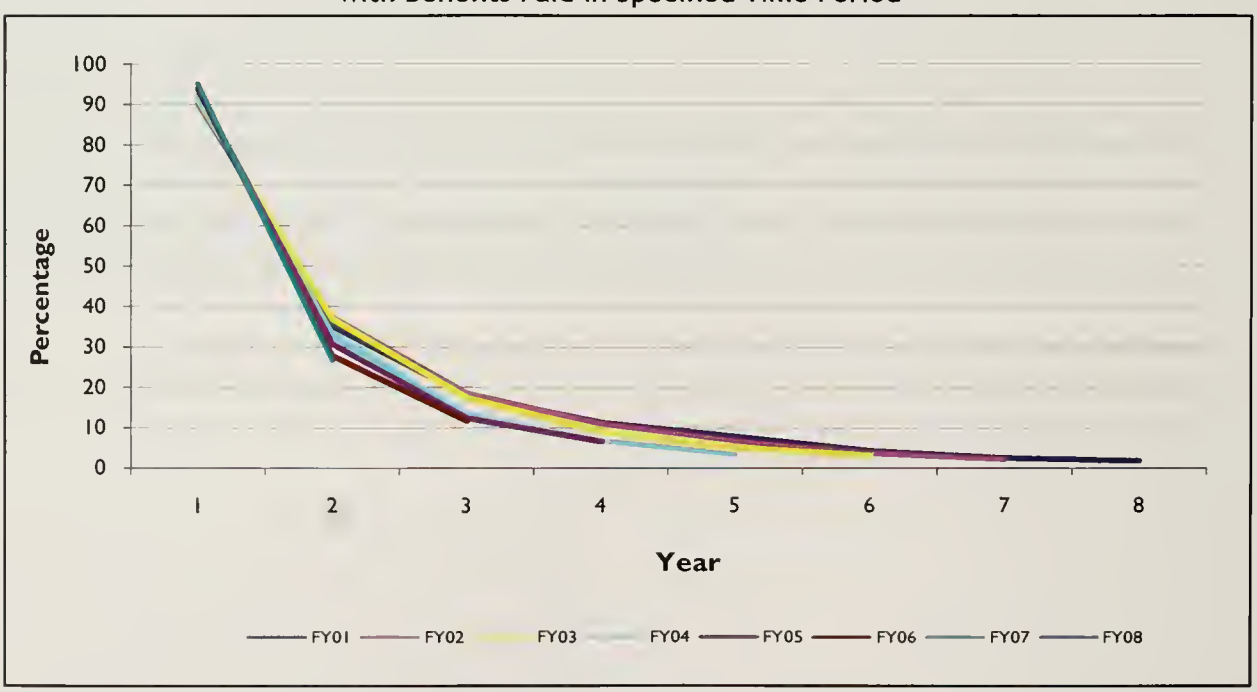


Exhibit 5.7.2
Percentage of Wage Loss
with Benefits Paid in Specified Time Period[11]



[11] As a percentage of all claims that have a wage loss benefit paid at some point in the life of a claim.

Exhibit 5.8
Total Medical Benefits, including Lump Sums

Injury Year	Category	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8
2001	Claims	3,675	1,995	1,023	874	839	820	643	351
	Average Yearly Benefits	$7,534	$6,301	$8,505	$8,861	$8,423	$6,804	$9,166	$8,478
	Average Total Benefits	$7,534	$15,817	$27,600	$32,493	$33,143	$34,179	$46,682	$65,393
	Percent	77.9	42.3	21.7	18.5	17.8	17.4	13.6	7.4
2002	Claims	3,795	2,181	1,375	1,042	890	779	484	
	Average Yearly Benefits	$8,519	$7,033	$7,960	$6,935	$5,496	$6,574	$7,610	
	Average Total Benefits	$8,519	$17,900	$26,403	$30,983	$34,080	$39,949	$55,989	
	Percent	78.9	45.4	28.6	21.7	18.5	16.2	10.1	
2003	Claims	3,768	2,708	1,636	1,038	939	620		
	Average Yearly Benefits	$8,072	$7,952	$6,347	$4,953	$9,162	$6,896		
	Average Total Benefits	$8,072	$16,238	$24,236	$31,313	$39,489	$52,752		
	Percent	74.5	53.5	32.3	20.5	18.6	12.3		
2004	Claims	4,500	2,660	1,311	1,094	643			
	Average Yearly Benefits	$7,810	$6,341	$6,239	$8,649	$7,210			
	Average Total Benefits	$7,810	$16,125	$25,207	$32,156	$45,216			
	Percent	86.2	50.9	25.1	20.9	12.3			
2005	Claims	4,445	2,340	1,610	829				
	Average Yearly Benefits	$8,683	$6,037	$7,993	$7,726				
	Average Total Benefits	$8,683	$17,905	$27,063	$41,250				
	Percent	89.9	47.3	32.6	16.8				
2006	Claims	4,189	3,158	1,435					
	Average Yearly Benefits	$6,966	$9,295	$7,202					
	Average Total Benefits	$6,966	$16,486	$28,940					
	Percent	84.5	63.7	29.0					
2007	Claims	4,265	2,555						
	Average Yearly Benefits	$10,204	$7,041						
	Average Total Benefits	$10,204	$19,867						
	Percent	91.3	54.7						
2008	Claims	4,344							
	Average Yearly Benefits	$9,000							
	Average Total Benefits	$9,000							
	Percent	99.6							

Exhibit 5.8 shows the claim counts, average yearly medical benefits, average total medical benefits, and claims percentages for the specified year. Year one represents the statistics for claims in the year of injury, while years two through eight provide statistics for claims as they move beyond their injury years. For example, 5,222 total claims with dates of injury in FY2004 received wage loss benefits. Of these claims, 4,500 received wage loss benefits in Year 1 with an average benefit of $7,810. By year three, 1,311 people injured in FY 2004 were still receiving medical benefits, at an average of $6,239 in that year. The average total benefit (average total medical cost of the claim) was $25,207 at that point in time. The percentage of FY 2004 claims that still had benefits being paid in year three was 25.1% (1,311 of 5,222 claims).

Exhibit 5.8.1 graphically depicts the change in average total medical benefits over time. In other words, it shows how claims costs (in terms of medical benefits) escalate as claims age. Exhibit 5.8.2 shows the percentages of claims receiving medical benefits in the specified year. In year eight, 7.4 percent of FY 2001 claims with medical benefits are still receiving medical benefits.

Exhibit 5.8.1
Average Total Medical Benefits

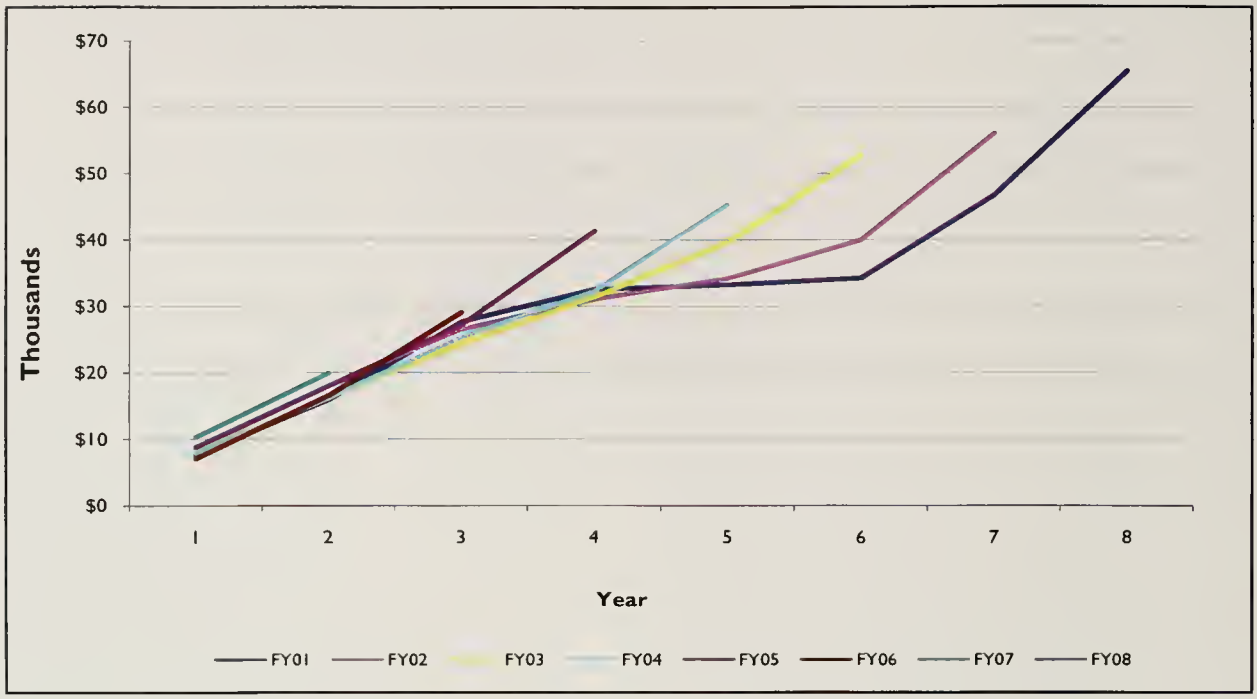
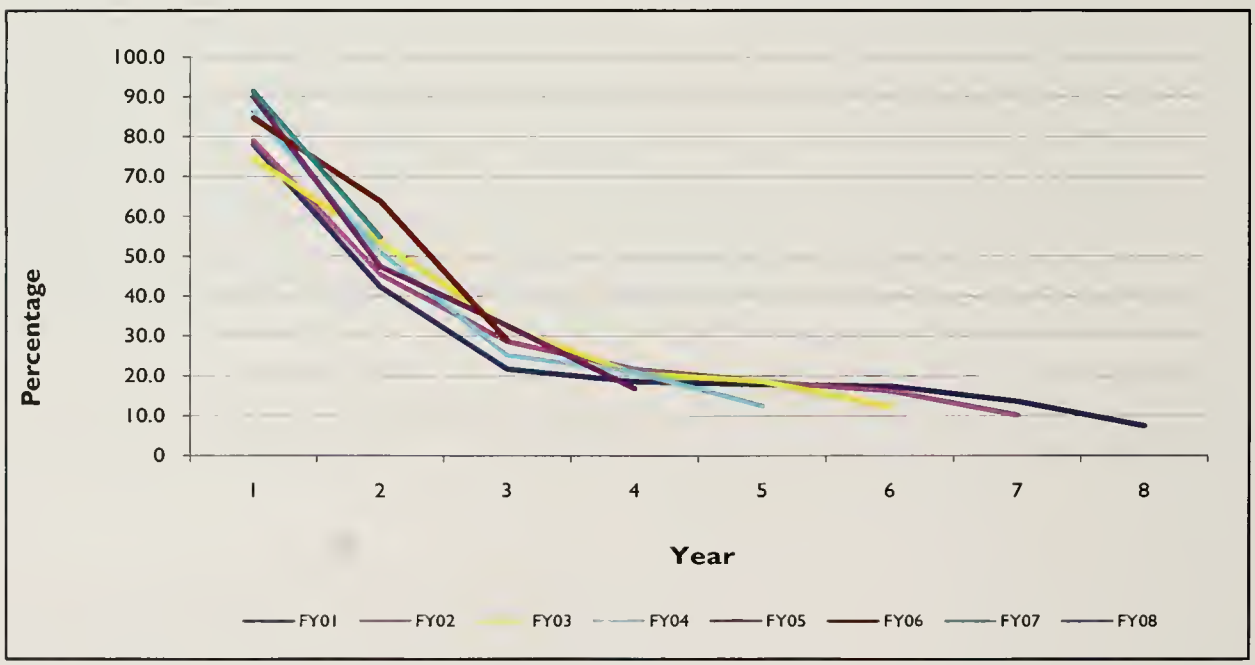


Exhibit 5.8.2
Percentage of Claims
with Medical Benefits Paid in Specified Time Period[12]



[12] As a percentage of all claims that have a medical benefit paid at some point in the life of a claim.

Exhibit 5.9
Total Wage Loss Benefits and Medical Benefits, including Lump Sums

Injury Year	Category	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8
2001	Claims	4,385	2,437	1,332	1,061	973	873	652	373
	Average Yearly Benefits	$12,421	$14,273	$17,417	$15,759	$13,660	$9,780	$12,107	$10,008
	Average Total Benefits	$12,421	$30,692	$53,545	$67,280	$71,178	$73,979	$94,601	$127,924
	Percent	88.1	48.9	26.7	21.3	19.5	17.5	13.1	7.5
2002	Claims	4,440	2,526	1,573	1,179	964	813	508	
	Average Yearly Benefits	$13,842	$16,661	$17,088	$13,398	$9,859	$9,220	$15,375	
	Average Total Benefits	$13,842	$35,391	$55,430	$64,729	$73,241	$87,720	$125,493	
	Percent	88.1	50.1	31.2	23.4	19.1	16.1	10.1	
2003	Claims	4,695	2,930	1,793	1,134	967	644		
	Average Yearly Benefits	$12,839	$16,711	$14,057	$11,497	$13,673	$9,639		
	Average Total Benefits	$12,839	$32,608	$51,317	$68,887	$83,328	$104,030		
	Percent	88.6	55.3	33.8	21.4	18.2	12.1		
2004	Claims	4,910	2,877	1,456	1,132	670			
	Average Yearly Benefits	$13,060	$14,093	$13,389	$15,798	$10,471			
	Average Total Benefits	$13,060	$31,069	$51,882	$66,429	$89,307			
	Percent	89.7	52.6	26.6	20.7	12.2			
2005	Claims	4,690	2,514	1,687	894				
	Average Yearly Benefits	$16,650	$13,747	$13,865	$13,108				
	Average Total Benefits	$16,650	$38,049	$57,660	$77,456				
	Percent	92.1	49.4	33.1	17.6				
2006	Claims	4,642	3,274	1,513					
	Average Yearly Benefits	$12,326	$15,222	$13,325					
	Average Total Benefits	$12,326	$29,466	$53,536					
	Percent	91.5	64.5	29.8					
2007	Claims	4,497	2,628						
	Average Yearly Benefits	$15,616	$12,741						
	Average Total Benefits	$15,616	$33,400						
	Percent	94.4	55.2						
2008	Claims	4,362							
	Average Yearly Benefits	$13,641							
	Average Total Benefits	$13,641							
	Percent	97.1							

Exhibit 5.9 shows the claim counts, average yearly benefits, average total benefits, and claims percentages for the specified year. Year one represents the statistics for claims in the year of injury, while years two through eight provide statistics for claims as they move beyond their injury years. For example, 4,980 total claims with dates of injury in FY2001 received wage loss benefits. Of these claims, 4,385 received wage loss benefits in Year 1 with an average benefit of $12,421. By year four, 1,061 people injured in FY 2001 were still receiving benefits, at an average of $15,759 in that year. The average total benefit (average total cost of the claim) was $67,280 at that point in time. The percentage of FY 2001 claims that still had benefits being paid in year four was 21.3% (1,061 of 4,980 claims).

Exhibit 5.9.1 graphically depicts the change in average total benefits over time. In other words, it shows how claims costs escalate as claims age. Exhibit 5.9.2 shows the percentages of claims receiving benefits in the specified year. In year eight, 7.5 percent of FY 2001 claims are still receiving benefits.

Exhibit 5.9.1
Average Total Benefits by Fiscal Year

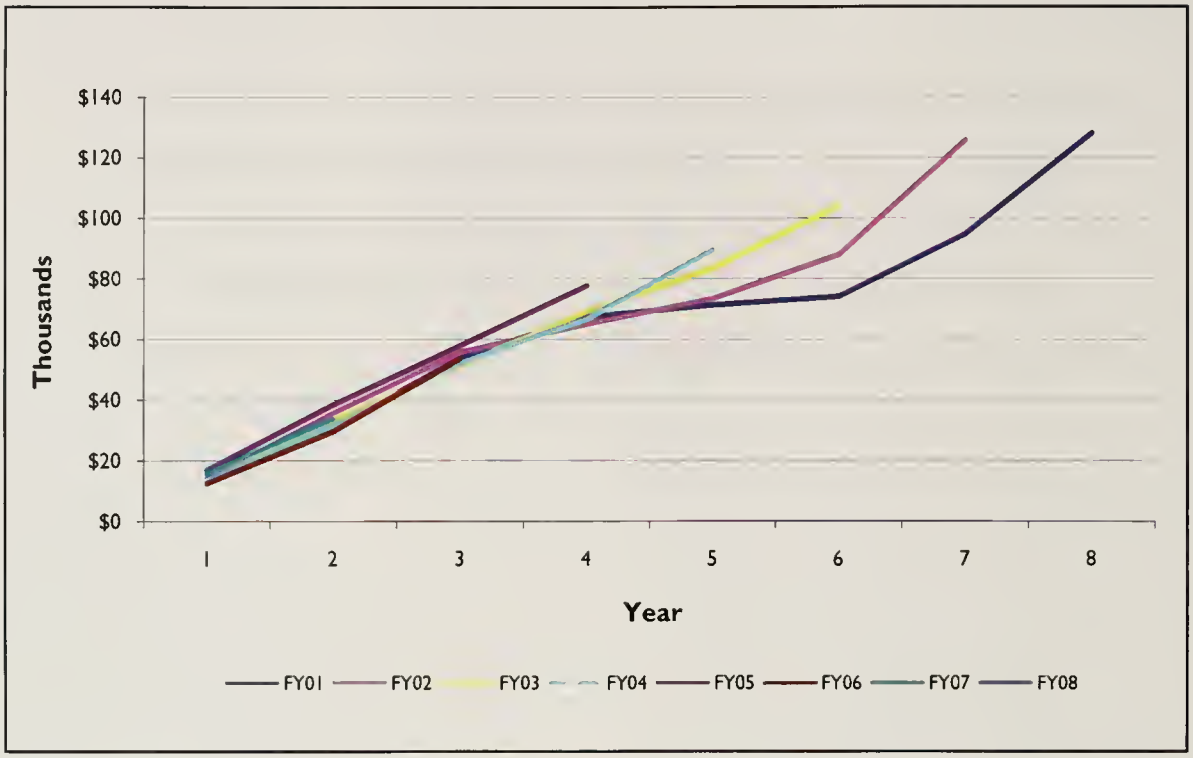
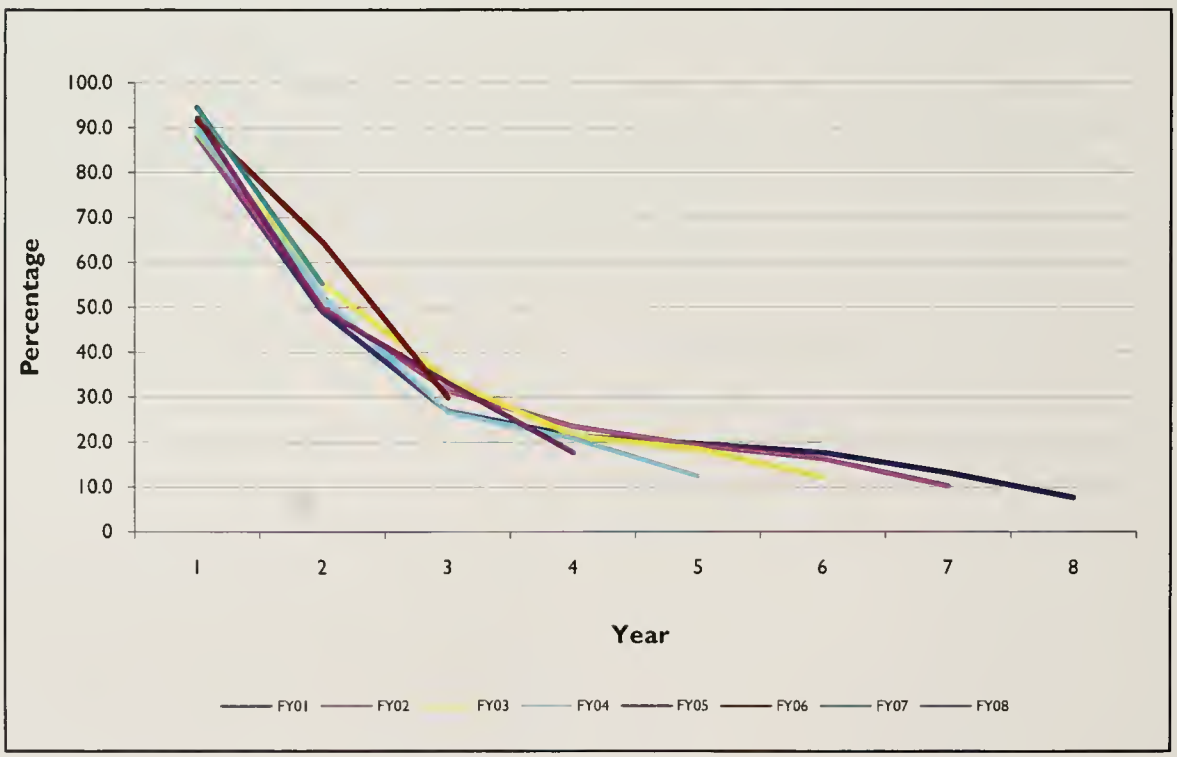


Exhibit 5.9.2
Percentage of Claims
with Benefits Paid in Specified Time Period[13]



[13] As a percentage of all claims with any benefit paid at some point in the life of a claim.

Exhibit 5.10

Wage Loss Benefits: Temporary Total Disability, including Lump Sums

Injury Year	Category	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8
2001	Claims	4,009	1,127	560	331	226	104	48	30
	Average Yearly Benefits	$4,778	$8,236	$9,858	$8,699	$6,970	$7,767	$12,259	$3,767
	Average Total Benefits	$4,778	$17,462	$29,346	$36,363	$35,471	$43,999	$60,780	$47,942
	Percent	93.5	26.3	13.1	7.7	5.3	2.4	1.1	0.7
2002	Claims	3,998	1,135	516	293	168	83	45	
	Average Yearly Benefits	$4,888	$8,195	$8,337	$7,042	$7,420	$7,344	$7,097	
	Average Total Benefits	$4,888	$17,639	$27,248	$31,732	$35,926	$41,899	$48,150	
	Percent	93.6	26.6	12.1	6.9	3.9	1.9	1.1	
2003	Claims	4,236	1,134	512	266	148	67		
	Average Yearly Benefits	$4,934	$8,048	$7,581	$7,224	$7,634	$6,147		
	Average Total Benefits	$4,934	$17,831	$25,794	$32,779	$40,119	$53,334		
	Percent	94.1	25.2	11.4	5.9	3.3	1.5		
2004	Claims	4,379	995	403	189	96			
	Average Yearly Benefits	$4,360	$7,403	$7,167	$7,544	$6,800			
	Average Total Benefits	$4,360	$15,879	$24,659	$32,427	$42,932			
	Percent	94.7	21.5	8.7	4.1	2.1			
2005	Claims	4,200	925	359	162				
	Average Yearly Benefits	$6,938	$7,488	$8,441	$7,983				
	Average Total Benefits	$6,938	$28,465	$26,812	$37,561				
	Percent	95.2	21.0	8.1	3.7				
2006	Claims	4,188	949	356					
	Average Yearly Benefits	$4,550	$8,163	$8,100					
	Average Total Benefits	$4,550	$17,688	$28,952					
	Percent	95.5	21.6	8.1					
2007	Claims	3,974	838						
	Average Yearly Benefits	$4,723	$7,211						
	Average Total Benefits	$4,723	$17,229						
	Percent	96.4	20.3						
2008	Claims	3,905							
	Average Yearly Benefits	$3,879							
	Average Total Benefits	$3,879							
	Percent	98.9							

Exhibit 5.11

Wage Loss Benefits: Temporary Partial Disability, including Lump Sums

Injury Year	Category	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8
2001	Claims	698	160	48	18	11	8	4	3
	Average Yearly Benefits	$1,915	$2,588	$3,338	$5,051	$1,142	$552	$1,094	$113
	Average Total Benefits	$1,915	$5,146	$7,029	$12,167	$3,712	$2,387	$1,382	$492
	Percent	87.6	20.1	6.0	2.3	1.4	1.0	0.5	0.4
2002	Claims	776	174	55	34	11	5	5	
	Average Yearly Benefits	$1,811	$2,969	$2,681	$2,021	$833	$752	$1,270	
	Average Total Benefits	$1,811	$5,449	$7,574	$7,893	$13,429	$2,114	$1,773	
	Percent	88.0	19.7	6.2	3.9	1.2	0.6	0.6	
2003	Claims	850	192	64	25	11	8		
	Average Yearly Benefits	$1,862	$3,676	$2,675	$2,905	$3,805	$1,947		
	Average Total Benefits	$1,862	$6,372	$7,854	$7,607	$9,115	$6,799		
	Percent	90.8	20.5	6.8	2.7	1.2	0.9		
2004	Claims	896	158	47	20	6			
	Average Yearly Benefits	$1,760	$2,788	$2,648	$2,020	$4,417			
	Average Total Benefits	$1,760	$4,968	$8,834	$11,754	$9,152			
	Percent	91.6	16.2	4.8	2.0	0.6			
2005	Claims	840	175	47	18				
	Average Yearly Benefits	$1,685	$2,388	$2,424	$7,745				
	Average Total Benefits	$1,685	$4,491	$6,517	$15,338				
	Percent	90.5	18.9	5.1	1.9				
2006	Claims	877	175	42					
	Average Yearly Benefits	$1,783	$2,215	$2,421					
	Average Total Benefits	$1,783	$4,902	$5,050					
	Percent	91.7	18.3	4.4					
2007	Claims	854	151						
	Average Yearly Benefits	$1,911	$2,535						
	Average Total Benefits	$1,911	$5,255						
	Percent	92.8	16.4						
2008	Claims	817							
	Average Yearly Benefits	$1,637							
	Average Total Benefits	$1,637							
	Percent	98.6							

Exhibit 5.12

Wage Loss Benefits: Permanent Partial Disability, including Lump Sums

Injury Year	Category	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8
2001	Claims	984	996	547	340	201	95	47	24
	Average Yearly Benefits	$4,810	$8,263	$9,920	$10,914	$9,159	$9,233	$6,492	$5,761
	Average Total Benefits	$4,810	$9,944	$16,525	$24,241	$29,176	$38,349	$45,750	$57,284
	Percent	48.8	49.4	27.1	16.9	10.0	4.7	2.3	1.2
2002	Claims	951	1,210	637	352	182	79	36	
	Average Yearly Benefits	$6,606	$9,583	$11,314	$10,138	$7,278	$7,856	$88,707	
	Average Total Benefits	$6,606	$12,606	$23,921	$24,438	$29,817	$33,011	$236,743	
	Percent	44.9	57.2	30.1	16.6	8.6	3.7	1.7	
2003	Claims	1,213	1,340	624	268	123	64		
	Average Yearly Benefits	$4,754	$9,464	$11,281	$8,982	$9,437	$7,081		
	Average Total Benefits	$4,754	$11,301	$20,760	$30,319	$40,794	$38,700		
	Percent	51.9	57.3	26.7	11.5	5.3	2.7		
2004	Claims	1,256	1,193	431	188	71			
	Average Yearly Benefits	$5,557	$9,470	$9,293	$12,138	$11,459			
	Average Total Benefits	$5,557	$11,455	$19,878	$33,817	$34,564			
	Percent	58.0	55.1	19.9	8.7	3.3			
2005	Claims	1,170	895	343	178				
	Average Yearly Benefits	$6,319	$9,490	$10,552	$10,253				
	Average Total Benefits	$6,319	$12,545	$22,147	$25,922				
	Percent	64.5	49.3	18.9	9.8				
2006	Claims	669	601	299					
	Average Yearly Benefits	$6,009	$10,205	$10,908					
	Average Total Benefits	$6,009	$12,053	$15,612					
	Percent	53.5	48.1	23.9					
2007	Claims	509	509						
	Average Yearly Benefits	$6,091	$9,366						
	Average Total Benefits	$6,091	$10,705						
	Percent	55.5	55.5						
2008	Claims	433							
	Average Yearly Benefits	$4,661							
	Average Total Benefits	$4,661							
	Percent	82.6							

Exhibit 5.13

Wage Loss Benefits: Permanent Total Disability, including Lump Sums

Injury Year	Category	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8
2001	Claims	8	20	31	40	45	37	38	34
	Average Yearly Benefits	$3,735	$10,641	$12,542	$21,911	$30,486	$20,157	$21,540	$11,371
	Average Total Benefits	$3,735	$11,141	$14,291	$30,091	$46,466	$51,057	$67,134	$71,088
	Percent	9.3	23.3	36.0	46.5	52.3	43.0	44.2	39.5
2002	Claims	6	26	35	39	40	36	27	
	Average Yearly Benefits	$4,002	$12,635	$25,184	$26,489	$31,434	$13,457	$17,076	
	Average Total Benefits	$4,002	$13,113	$28,545	$39,362	$60,321	$60,573	$74,831	
	Percent	7.1	30.6	41.2	45.9	47.1	42.4	31.8	
2003	Claims	9	18	30	39	33	40		
	Average Yearly Benefits	$19,415	$24,846	$42,760	$36,722	$31,785	$18,462		
	Average Total Benefits	$19,415	$31,159	$51,715	$57,640	$66,435	$54,990		
	Percent	10.8	21.7	36.1	47.0	39.8	48.2		
2004	Claims	3	14	24	25	26			
	Average Yearly Benefits	$12,631	$34,065	$64,380	$25,424	$21,075			
	Average Total Benefits	$12,631	$36,236	$67,759	$41,792	$53,164			
	Percent	6.5	30.4	52.2	54.3	56.5			
2005	Claims	3	16	19	25				
	Average Yearly Benefits	$36,042	$19,938	$37,509	$38,269				
	Average Total Benefits	$36,042	$24,080	$47,502	$67,614				
	Percent	8.3	44.4	52.8	69.4				
2006	Claims	6	13	20					
	Average Yearly Benefits	$9,827	$29,233	$41,367					
	Average Total Benefits	$9,827	$31,758	$46,023					
	Percent	20.7	44.8	69.0					
2007	Claims	3	13						
	Average Yearly Benefits	$20,146	$7,896						
	Average Total Benefits	$20,146	$9,065						
	Percent	17.6	76.5						
2008	Claims	4							
	Average Yearly Benefits	$6,213							
	Average Total Benefits	$6,213							
	Percent	66.7							

Exhibit 5.14

Medical Benefits: Payments to Physicians

Injury Year	Category	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8
2001	Claims	3,464	1,856	931	775	727	736	569	297
	Average Yearly Benefits	$2,715	$2,274	$2,588	$2,821	$2,538	$2,156	$2,020	$3,509
	Average Total Benefits	$2,715	$5,521	$8,670	$9,968	$9,478	$9,437	$12,061	$18,100
	Percent	77.4	41.5	20.8	17.3	16.2	16.4	12.7	6.6
2002	Claims	3,602	2,089	1,246	884	785	687	410	
	Average Yearly Benefits	$2,874	$2,437	$2,203	$2,262	$1,452	$1,642	$2,322	
	Average Total Benefits	$2,874	$5,843	$7,910	$9,496	$9,782	$11,032	$15,439	
	Percent	79.0	45.8	27.3	19.4	17.2	15.1	9.0	
2003	Claims	3,598	2,543	1,449	914	832	521		
	Average Yearly Benefits	$2,974	$2,627	$1,988	$1,475	$2,391	$1,958		
	Average Total Benefits	$2,974	$5,455	$7,655	$9,526	$11,110	$14,504		
	Percent	75.1	53.1	30.2	19.1	17.4	10.9		
2004	Claims	4,189	2,470	1,189	963	530			
	Average Yearly Benefits	$2,695	$2,114	$1,952	$2,301	$2,080			
	Average Total Benefits	$2,695	$5,336	$7,729	$9,235	$12,890			
	Percent	86.0	50.7	24.4	19.8	10.9			
2005	Claims	4,172	2,218	1,456	683				
	Average Yearly Benefits	$2,826	$2,024	$2,395	$1,978				
	Average Total Benefits	$2,826	$5,682	$8,084	$12,015				
	Percent	90.0	47.9	31.4	14.7				
2006	Claims	4,052	3,009	1,248					
	Average Yearly Benefits	$2,378	$2,855	$1,903					
	Average Total Benefits	$2,378	$5,224	$8,655					
	Percent	85.8	63.8	26.4					
2007	Claims	4,205	2,379						
	Average Yearly Benefits	$3,003	$2,019						
	Average Total Benefits	$3,003	$5,786						
	Percent	93.9	53.1						
2008	Claims	4,160							
	Average Yearly Benefits	$2,670							
	Average Total Benefits	$2,670							
	Percent	100.0							

Exhibit 5.15
Medical Benefits: Payments to Hospitals

Injury Year	Category	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8
2001	Claims	2,759	1,328	579	483	462	423	286	79
	Average Yearly Benefits	$4,440	$3,607	$5,184	$4,829	$4,862	$4,176	$6,251	$5,827
	Average Total Benefits	$4,440	$8,983	$15,945	$16,030	$16,795	$14,917	$22,598	$29,242
	Percent	76.2	36.7	16.0	13.3	12.8	11.7	7.9	2.2
2002	Claims	2,888	1,478	808	550	388	276	142	
	Average Yearly Benefits	$5,189	$3,757	$4,023	$4,321	$3,661	$4,852	$5,580	
	Average Total Benefits	$5,189	$10,018	$13,558	$16,510	$17,417	$21,291	$25,624	
	Percent	77.7	39.8	21.7	14.8	10.4	7.4	3.8	
2003	Claims	2,845	1,902	967	474	410	184		
	Average Yearly Benefits	$4,713	$4,397	$3,847	$3,368	$5,877	$6,635		
	Average Total Benefits	$4,713	$8,770	$13,762	$18,804	$22,338	$28,827		
	Percent	72.2	48.3	24.5	12.0	10.4	4.7		
2004	Claims	3,410	1,792	641	461	198			
	Average Yearly Benefits	$4,609	$3,647	$4,682	$5,591	$5,561			
	Average Total Benefits	$4,609	$9,038	$15,412	$19,546	$25,191			
	Percent	84.6	44.5	15.9	11.4	4.9			
2005	Claims	3,395	1,483	760	261				
	Average Yearly Benefits	$5,409	$3,458	$4,895	$5,654				
	Average Total Benefits	$5,409	$10,312	$15,737	$21,614				
	Percent	88.0	38.4	19.7	6.8				
2006	Claims	2,840	1,767	524					
	Average Yearly Benefits	$3,918	$5,178	$5,463					
	Average Total Benefits	$3,918	$8,892	$14,382					
	Percent	83.9	52.2	15.5					
2007	Claims	2,142	1,080						
	Average Yearly Benefits	$6,618	$4,548						
	Average Total Benefits	$6,618	$11,329						
	Percent	89.5	45.1						
2008	Claims	2,064							
	Average Yearly Benefits	$5,912							
	Average Total Benefits	$5,912							
	Percent	99.5							

Exhibit 5.16

Medical Benefits: Payments to Other Medical Providers

Injury Year	Category	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8
2001	Claims	3,236	1,690	888	763	718	687	515	284
	Average Yearly Benefits	$1,858	$2,072	$3,687	$4,060	$4,161	$3,278	$5,752	$5,075
	Average Total Benefits	$1,858	$4,243	$8,593	$11,346	$12,680	$13,494	$21,180	$31,466
	Percent	76.4	39.9	21.0	18.0	17.0	16.2	12.2	6.7
2002	Claims	3,328	1,896	1,205	880	705	604	396	
	Average Yearly Benefits	$2,111	$2,490	$4,090	$3,236	$3,256	$4,402	$4,642	
	Average Total Benefits	$2,111	$5,211	$9,473	$10,123	$13,172	$17,076	$25,428	
	Percent	77.6	44.2	28.1	20.5	16.4	14.1	9.2	
2003	Claims	3,348	2,377	1,379	835	751	503		
	Average Yearly Benefits	$1,898	$2,727	$2,753	$2,624	$5,612	$3,825		
	Average Total Benefits	1,898	4,599	7,721	10,791	15,536	21,456		
	Percent	73.5	52.2	30.3	18.3	16.5	11.0		
2004	Claims	4,116	2,309	1,085	923	544			
	Average Yearly Benefits	$1,991	$2,236	$2,664	$4,822	$4,267			
	Average Total Benefits	$1,991	$4,705	$8,103	$12,008	$17,516			
	Percent	86.1	48.3	22.7	19.3	11.4			
2005	Claims	4,106	2,026	1,414	757				
	Average Yearly Benefits	$2,077	$2,244	$4,012	$4,511				
	Average Total Benefits	$2,077	$4,934	$9,264	$15,584				
	Percent	89.6	44.2	30.8	16.5				
2006	Claims	3,917	2,929	1,297					
	Average Yearly Benefits	$2,174	$3,967	$3,918					
	Average Total Benefits	$2,174	$6,252	$11,897					
	Percent	85.2	63.7	28.2					
2007	Claims	3,996	2,378						
	Average Yearly Benefits	$4,201	$3,425						
	Average Total Benefits	$4,201	$8,401						
	Percent	91.8	54.6						
2008	Claims	4,071							
	Average Yearly Benefits	$3,856							
	Average Total Benefits	$3,856							
	Percent	100.0							

Exhibit 5.17

Medical Lump Sums: Paid to Claimant as Settlement of Medical Liability

Injury Year	Category	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8
2001	Claims	3	8	14	8	1	2	2	2
	Average Yearly Benefits	$14,770	$8,102	$5,203	$17,498	$142	$291	$79	$16,831
2002	Claims	8	25	17	10	8	4	7	
	Average Yearly Benefits	$700	$2,847	$1,963	$321	$7,158	$3,035	$12,342	
2003	Claims	6	10	4	3	1	2		
	Average Yearly Benefits	$4,553	$1,916	$2,553	$7,037	$10	$3,537		
2004	Claims	0	2	0	5	8			
	Average Yearly Benefits	$0	$8,975	$0	$45,713	$12,580			
2005	Claims	4	2	3	9				
	Average Yearly Benefits	$1,205	$2,610	$6,713	$8,778				
2006	Claims	5	7	11					
	Average Yearly Benefits	$6,177	$5,606	$6,953					
2007	Claims	4	26						
	Average Yearly Benefits	$6,714	$5,801						
2008	Claims	29							
	Average Yearly Benefits	$6,731							

Exhibit 5.18

Vocational Rehabilitation Benefits, including Lump Sums

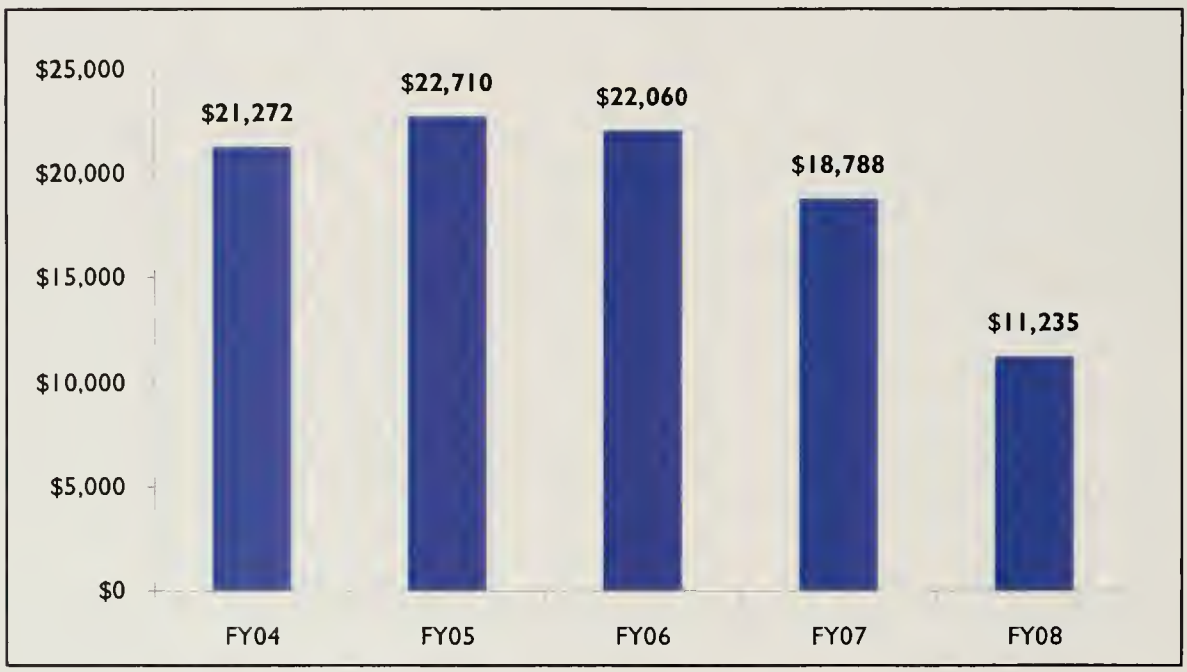
Injury Year	Category	YR1	YR2	YR3	YR4	YR5	YR6	YR7	YR8
2001	Claims	80	172	125	83	49	36	20	10
	Average Yearly Benefits	$2,471	$4,753	$7,415	$8,230	$6,822	$5,786	$4,759	$3,975
	Average Total Benefits	$2,471	$5,433	$11,437	$18,220	$16,624	$15,869	$13,428	$15,238
	Percent	23.8	51.2	37.2	24.7	14.6	10.7	6.0	3.0
2002	Claims	74	171	120	72	45	34	21	
	Average Yearly Benefits	$2,256	$4,857	$8,367	$7,941	$5,992	$4,895	$5,172	
	Average Total Benefits	$2,256	$5,317	$12,252	$19,537	$15,006	$12,223	$13,054	
	Percent	21.7	50.1	35.2	21.1	13.2	10.0	6.2	
2003	Claims	72	206	113	91	68	53		
	Average Yearly Benefits	$2,662	$4,056	$6,356	$7,741	$6,257	$6,132		
	Average Total Benefits	$2,662	$4,696	$10,045	$14,255	$12,297	$12,207		
	Percent	17.8	50.9	27.9	22.5	16.8	13.1		
2004	Claims	67	159	174	134	47			
	Average Yearly Benefits	$2,224	$3,969	$5,762	$6,420	$5,910			
	Average Total Benefits	$2,224	$4,364	$7,292	$12,480	$15,606			
	Percent	17.5	41.6	45.5	35.1	12.3			
2005	Claims	98	417	270	105				
	Average Yearly Benefits	$2,582	$4,832	$6,157	$5,899				
	Average Total Benefits	$2,582	$5,060	$9,260	$13,861				
	Percent	16.0	68.2	44.2	17.2				
2006	Claims	600	759	306					
	Average Yearly Benefits	$3,700	$5,440	$6,263					
	Average Total Benefits	$3,700	$6,973	$11,162					
	Percent	52.6	66.6	26.8					
2007	Claims	650	672						
	Average Yearly Benefits	$3,452	$4,507						
	Average Total Benefits	$3,452	$5,851						
	Percent	59.8	61.8						
2008	Claims	578							
	Average Yearly Benefits	$2,696							
	Average Total Benefits	$2,696							
	Percent	86.9							

Settlement Dollars

Settlements are lump sum payments of the claimant's workers' compensation indemnity and/or medical benefits. Benefits are usually paid in periodic payments designed to sustain an injured worker over an extended period of time. Settlements can occur when the claimant and the insurer agree that benefits will be converted to a lump sum payment. If the claimant has more than one claim, a settlement may settle more than one of those claims. Settlements are subject to approval by ERD.

This graph displays average settlement amounts, by fiscal year of injury. This information includes both injury and occupational disease settlements.

Exhibit 5.19
Average Settlement[14]
By Fiscal Year of Injury



[14] These charts do not include settlements ordered by the Workers' Compensation Court.

Exhibit 5.20
Settlement Amounts for Claims Settled[15]
By Plan Type[16] and Fiscal Year of Injury

Plan Type	FY04		FY05		FY06		FY07		FY08	
	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	3,225,178	184	2,671,251	148	2,600,323	137	1,496,763	75	197,764	20
Plan 2	6,671,786	342	6,119,859	293	6,060,217	293	3,136,769	171	475,982	49
Plan 3	9,405,762	384	9,847,324	381	8,474,733	345	5,192,444	276	966,561	77
UEF	161,417	5	119,739	4	5,001	2	19,000	2	0	0
Total[17]	**$19,464,143**	**915**	**$18,758,173**	**826**	**$17,140,274**	**777**	**$9,844,976**	**524**	**$1,640,307**	**146**

[15] These charts do not include settlements ordered by the Workers' Compensation Court.
[16] Plan types: Plan 1 - Self-Insured, Plan 2 - Private Insurance, Plan 3 - Montana State Fund, and UEF - Uninsured Employers Fund.
[17] Previous fiscal year information has been updated.

Injured Worker Attorney Fees

ERD requires claimants' attorneys to submit a Legal Fee Report at regular intervals throughout the life of a claim.

Maximum legal fees are set by rule and regulated[18] by ERD. The Legal Fee Report provides the amount of attorney fees received by the attorney.

The data in exhibits 5.21 and 5.22 present attorney legal fee information by plan type and fiscal year of injury.

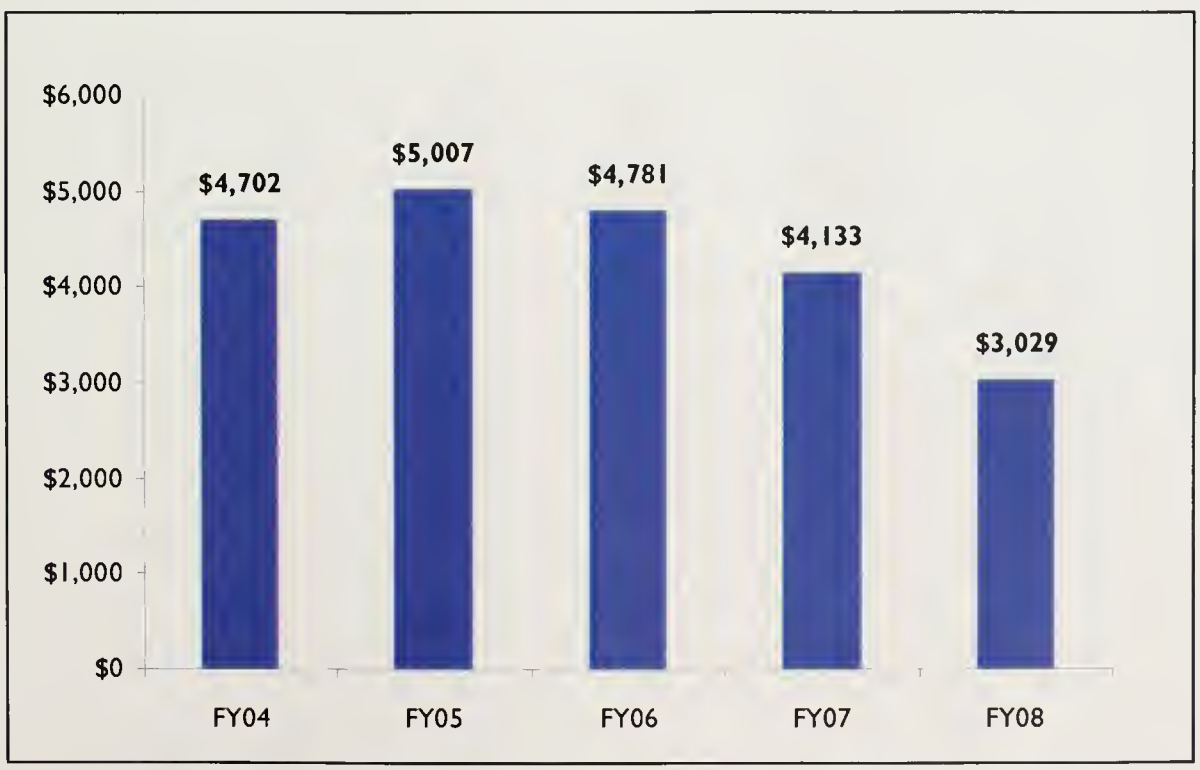
[18] §39-71-613, MCA (2008).

Exhibit 5.21
Total Attorney Legal Fees
By Plan Type[19] and Fiscal Year of Injury

Plan Type	FY04		FY05		FY06		FY07		FY08	
	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	247,305	52	234,639	56	356,348	93	168,558	38	77,524	23
Plan 2	786,009	167	590,590	148	612,617	149	437,623	134	141,828	67
Plan 3	1,137,408	244	1,220,639	205	1,273,993	225	889,340	190	307,693	83
UEF	11,093	1	7,114	1	32,683	9	4,916	1	0	1
Total	***$2,181,815***	***464***	***$2,052,982***	***410***	***$2,275,641***	***476***	***$1,500,437***	***363***	***$527,045***	***174***

[19] Plan types: Plan 1 - Self-Insured Employers, Plan 2 - Private Insurance, Plan 3 - Montana State Fund, and UEF - Uninsured Employers Fund.

Exhibit 5.22
Average Attorney Legal Fees
By Fiscal Year of Injury



ERD also collects legal fees reported on workers' compensation approved settlements. The table below represents fees claimed in the fiscal year of the approved settlement regardless of the fiscal year in which the injury or disease occurred. Data shows that approximately 56% of all settlements in FY 2008 involved attorneys.

Exhibit 5.23
Attorney Fees from Claimant Settlements[20]
By Fiscal Year of Settlement

	FY04	FY05	FY06	FY07	FY08
Number of Settlement Petitions Processed	1,414	1,452	1,459	1,405	1,410
Claims Settled with Attorney Representation	765	778	796	775	786
Percent Claimants Represented by Attorney	54%	54%	55%	55%	56%
Average Fee/Settlement Percentage	18%	18%	18%	18%	19%
Total Settlement Amount with Attorney Involvement	***$22,500,597***	***$22,361,132***	***$26,086,926***	***$24,538,844***	***$29,304,566***
Total Attorney Fees	***$3,965,033***	***$3,936,199***	***$4,729,148***	***$4,424,590***	***$5,442,589***

[20] Similar to reports issued in previous years, there are a small percentage of records for which no attorney fees were listed due to entry errors and/or reporting limitations.

Insurer Legal Expenses

ERD requires insurance companies to report legal fees and costs associated with each indemnity claim.[21] These costs are reported to ERD on the subsequent report of injury at regular intervals throughout the life of a claim.

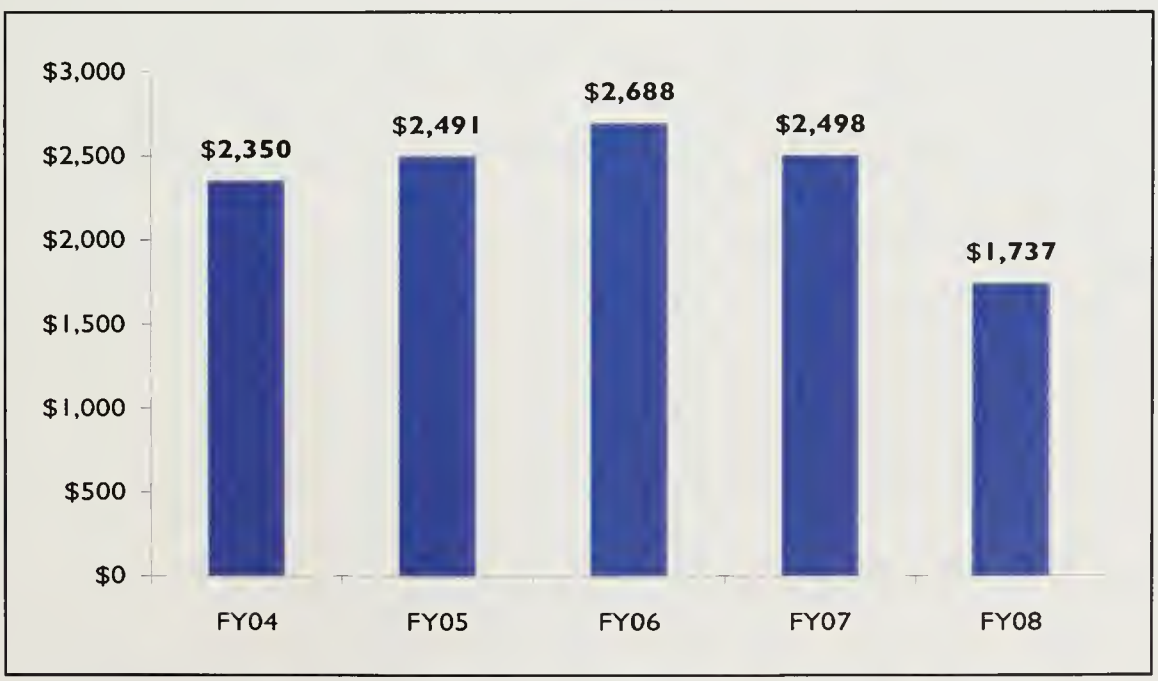
The data in exhibits 5.24 and 5.25 present insurer legal expenses by plan type and fiscal year of injury.

[21] ARM 24.29.4335 and 24.29.4336 (2008).

Exhibit 5.24
Total Insurer Legal Expenses
By Plan Type and Fiscal Year of Injury

	FY04		FY05		FY06		FY07		FY08	
Plan Type	Amount	Count	Amount	Count	Amount	Count	Amount	Count	Amount	Count
Plan 1	337,498	172	221,829	160	310,088	126	187,170	66	72,572	35
Plan 2	573,574	238	563,481	161	509,711	165	373,821	146	169,570	101
Plan 3	237,915	79	111,391	39	64,553	38	15,963	19	4,519	6
Totals	***$1,148,987***	***489***	***$896,701***	***360***	***$884,352***	***329***	***$576,954***	***231***	***$246,661***	***142***

Exhibit 5.25
Average Insurer Legal Expenses per Claim
By Fiscal Year of Injury



Dispute Resolution

Mediation

Contested Case Hearings

Workers' Compensation Court

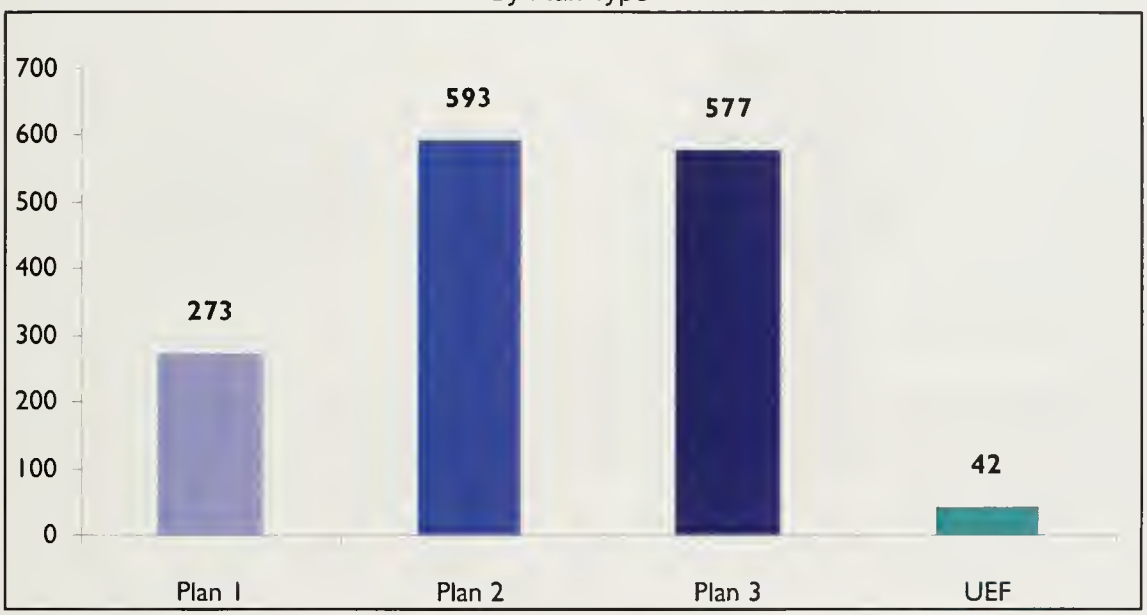
Significant Workers' Compensation Cases

Supreme Court Decisions on Workers' Compensation & Occupational Diseases

Mediation

The Workers' Compensation Mediation Unit of ERD administers a mandatory process for resolving disputes dealing with benefits for both occupational injury and disease claims. The mediation process is confidential, non-binding and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are usually by telephone but can be held in person in Helena upon request. Often more than one conference is held in order to resolve the disputes on a claim. In FY 2008, the Mediation Unit received and processed 1,265 petitions, which involved 1,485 claims. A petition is a request for mediation and may include multiple claims.

Exhibit 6.1
Claims in Mediation - FY08
By Plan Type[1]



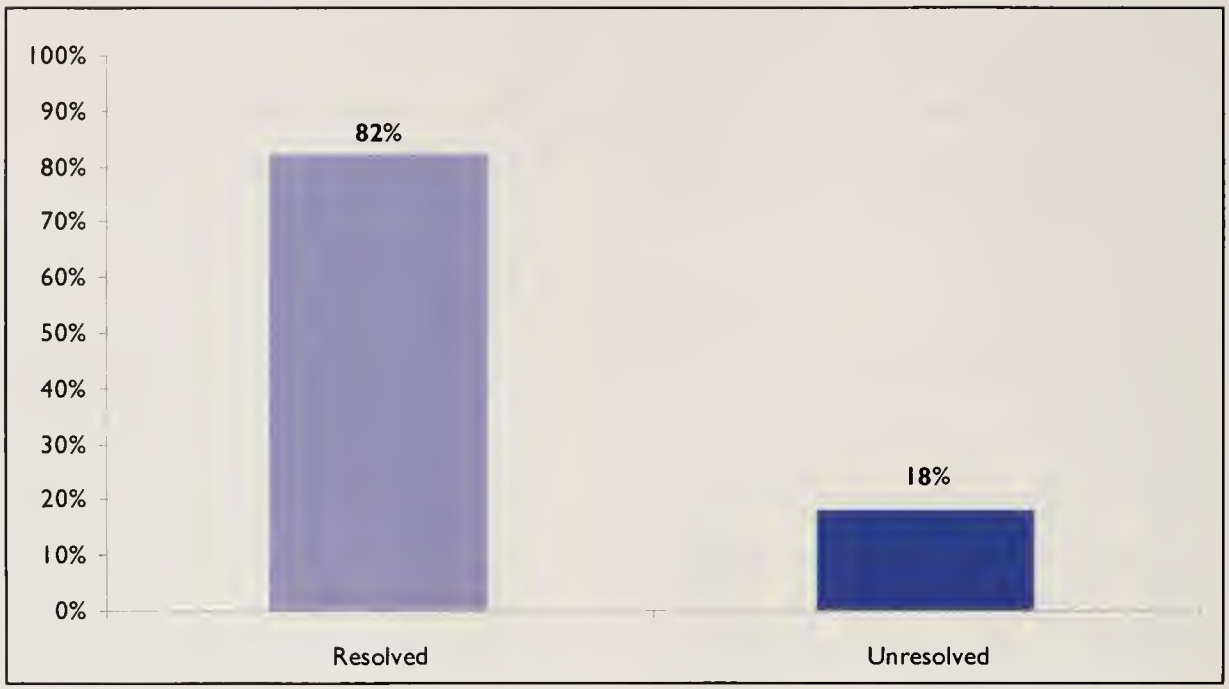
[1] Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund and UEF – Uninsured Employers Fund.

Exhibit 6.2
Claims in Mediation
By Plan Type[2] and Fiscal Year of Receipt

	FY04		FY05		FY06		FY07		FY08	
Plan Types	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	273	19%	270	18%	268	17%	245	16%	273	18%
Plan 2	577	41%	544	37%	587	38%	561	38%	593	40%
Plan 3	552	39%	621	42%	675	43%	645	43%	577	39%
UEF	16	1%	27	2%	28	2%	35	2%	42	3%
Totals[3]	***1,418***	***100%***	***1,462***	***100%***	***1,558***	***100%***	***1,486***	***100%***	***1,485***	***100%***

[2] Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund and UEF – Uninsured Employers Fund.
[3] Total count represents the number of claims, not the number of petitions. Due to coverage and claim updates to our database following mediation, the claim counts may be changed slightly over prior years.

Exhibit 6.3
Percent of Mediation Petitions Resolved - FY08



Over the past five years, the Mediation process has had an average resolution rate of 80%.

From the date of the petition receipt to issuing a written recommendation, the average completion time for mediation was 39 days in FY 2008.

Exhibit 6.4
Mediation Petitions[4]
By Fiscal Year of Receipt

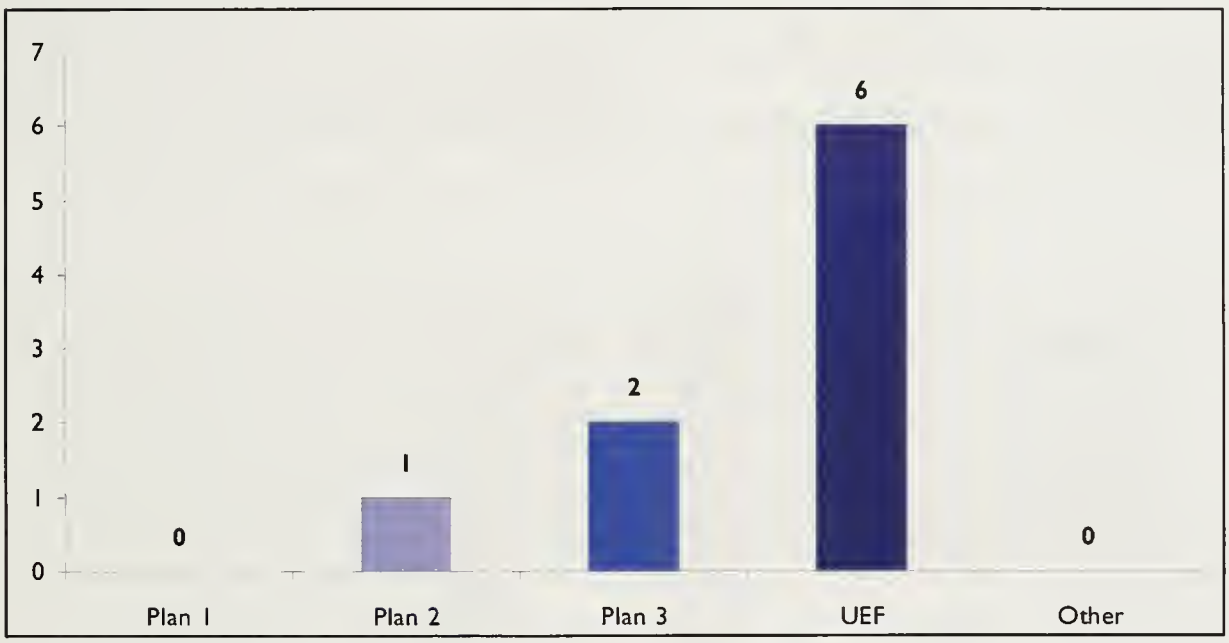
Petitions Received	FY04		FY05		FY06		FY07		FY08	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Pending[5]	0	0%	0	0%	4	1%	6	1%	80	6%
Closed	1,303	100%	1,336	100%	1,406	99%	1.306	99%	1,265	94%
Total Petitions Received	***1,303***	***100%***	***1,336***	***100%***	***1,410***	***100%***	***1,312***	***100%***	***1,345***	***100%***
Resolved	1,002	77%	1,032	77%	1,144	81%	1,079	83%	1,042	82%
Unresolved	301	23%	304	23%	262	19%	227	17%	223	18%
Total Petitions Closed	***1,303***	***100%***	***1,336***	***100%***	***1,406***	***100%***	***1,306***	***100%***	***1,265***	***100%***

[4] A single petition may include multiple claims and/or multiple insurers.
[5] Eventual outcome of pending petitions will affect percent resolved.

Contested Case Hearings

The DLI Hearings Bureau holds contested case hearings. Disputes heard at contested case hearings include appeals from orders and determinations issued by ERD, assessments of penalties for uninsured employers, medical disputes between providers and insurers when payments to the claimant are not an issue and regulation of attorney fees. In FY 2008, the Hearings Bureau received 9 new requests for contested case hearings.

Exhibit 6.5
Petitions Received by the Hearings Bureau - FY08
By Plan Type[6]



[6] Plan types: Plan 1 - Self-insured Employers, Plan 2 - Private Insurance, Plan 3 - Montana State Fund, UEF - Uninsured Employers Fund and Other.

Exhibit 6.6
Petitions Received by the Hearings Bureau
By Plan Type[7] and Fiscal Year

	FY04		FY05		FY06		FY07		FY08	
Plan Type	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	0	0%	0	0%	1	10%	1	7%	0	0%
Plan 2	5	36%	3	28%	0	0%	10	67%	1	11%
Plan 3	7	50%	4	36%	7	70%	1	7%	2	22%
UEF	2	14%	4	36%	2	20%	2	13%	6	67%
Other	--	--	--	--	--	--	1	6%	--	--
Total	*14*	*100%*	*11*	*100%*	*10*	*100%*	*15*	*100%*	*9*	*100%*

[7] Plan types: Plan 1 - Self-insured Employers, Plan 2 - Private Insurance, Plan 3 - Montana State Fund, UEF - Uninsured Employers Fund and Other.

Workers' Compensation Court

The Workers' Compensation Court resolves disputes between insurers or employers and workers injured as a result of occupational injuries or diseases. The court has original jurisdiction over benefit issues arising under the Workers' Compensation Act. For an injury occurring after July 1, 1987, disputes must first be mediated. The court's exclusive jurisdiction also extends to disputes involving independent contractor exemptions under both the Workers' Compensation and Unemployment Insurance Acts, enforcement of DLI subpoenas, civil penalties for violations of workers' compensation provisions, and the two-year return to work preference specified in section 39-71-317(2), MCA.

Data Source: The Workers' Compensation Court Website: http://wcc.dli.mt.gov

Exhibit 6.7
Percent of Petitions Received by the WCC - FY08
By Plan Type

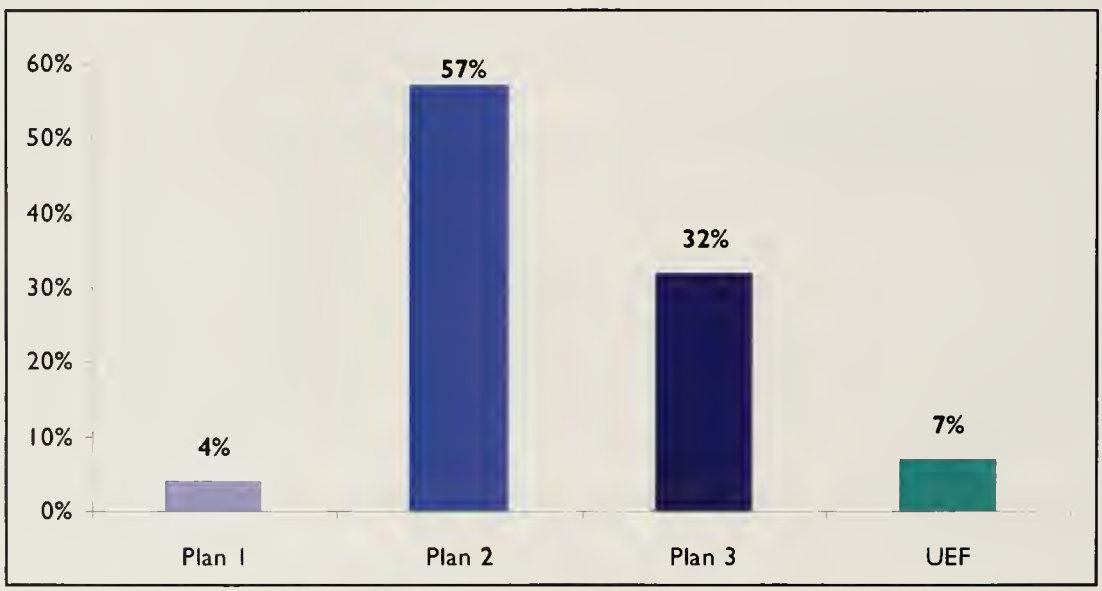


Exhibit 6.8
Petitions Received by the WCC
By Plan Type[8] and Fiscal Year

	FY04		FY05		FY06		FY07		FY08	
Plan Type	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	28	11%	40	14%	34	11%	18	8%	8	4%
Plan 2	144	55%	124	45%	150	49%	122	54%	115	57%
Plan 3	75	29%	96	35%	108	36%	81	36%	66	32%
UEF	14	5%	18	6%	12	4%	4	2%	14	7%
Total by Plan[9]	*261*	*100%*	*278*	*100%*	*304*	*100%*	*225*	*100%*	*203*	*100%*

[8] Plan types: Plan 1 - Self-insured Employers, Plan 2 - Private Insurance, Plan 3 - Montana State Fund, UEF - Uninsured Employers Fund and Other.
[9] Petitions may involve more than one plan type.

Exhibit 6.9
Decisions by the WCC
By Fiscal Year

Decisions	FY04	FY05	FY06	FY07	FY08
Telephone Conference Resulting in Disposition	0	0	0	0	0
Bench Rulings without Written Decisions	1	3	1	0	0
Decisions	158	161	182	166	170
Orders on Appeal	0	1	1	0	0
Substantive Orders	30	41	27	19	68
Attorney Fee Orders	7	2	2	2	2
Orders on Cost	4	2	2	5	6
Subtotals	***200***	***210***	***215***	***192***	***246***
Petitions Dismissed by Agreement	88	83	96	80	46
Totals	***288***	***293***	***311***	***272***	***292***

Exhibit 6.10
Full and Final Compromise Settlements by the WCC
By Plan Type and Fiscal Year

Plan Type	FY04	FY05	FY06	FY07	FY08
Plan 1 - Self-Insured	7	1	1	7	2
Plan 2 - Private Insurers	13	6	6	8	6
Plan 3 - State Compensation Ins. Fund	17	10	15	7	12
Plan 5 - Uninsured Employers Fund	0	0	0	0	0
Total	***37***	***17***	***22***	***22***	***20***

Significant Workers' Compensation Cases

Case summaries are taken from the WCC Website: http://wcc.dli.mt.gov

2008 MTWCC 42

RICK BOWLER, d/b/a RICK'S FLOORING vs. INDEPENDENT CONTRACTOR CENTRAL UNIT

Summary: Petitioner appealed the Independent Contractor Central Unit's Determination to this Court. Petitioner argued that the ICCU wrongly determined that Gregory D. Holm performed services for Rick's Flooring as an employee between October 6, 2005, and December 23, 2006.

Held: Holm did not possess a valid independent contractor exemption certificate during the time he was working with Petitioner. The Court therefore applies the two-part test to determine Holm's employment status. Applying this test, the Court concludes that Gregory D. Holm was Petitioner's employee during the time at issue. The ICCU's Determination is affirmed.

2008 MTWCC 41

KATHY BENTON as Personal Representative of the Estate of Mickey Benton vs. UNINSURED EMPLOYERS' FUND and ROBERT AND SUSAN HARRYMAN of Oregon, and/or ALAN MEYER and ERICA RODRIGUEZ, d/b/a ROGUE TRANSPORTATION of Oregon

Summary: Rogue Transportation, an Oregon business, moves the Court for summary judgment arguing, inter alia, that pursuant to § 39-71-117(4), MCA, it was not an employer of Mickey Benton at the time of his accident and death because it did not maintain a place of business in Montana. Petitioner contends that Rogue did maintain a place of business in Montana because Rogue maintained a place of business wherever its vehicle was located.

Held: Rogue did not maintain a place of business in Montana pursuant to § 39-71-117(4), MCA. Rogue's motion for summary judgment is granted.

2008 MTWCC 30

JERRY NARUM vs. LIBERTY NORTHWEST INSURANCE CORPORATION

Appealed to the Montana Supreme Court July 1, 2008

Summary: In March 2004, Petitioner and Respondent settled Petitioner's claim for a hip condition with Respondent accepting liability and leaving medical benefits reserved. In December 2006, Respondent ceased paying for Petitioner's medical treatment for his hip, and further refused to pay for hip replacement surgery, stating that it did not believe Petitioner's need for a hip replacement was caused by his industrial accident.

Held: Respondent cannot accept liability for a hip condition and settle a claim with medical benefits reserved and then later simply change its mind and refuse to pay benefits. Petitioner is entitled to payment of his medical benefits for treatment of his left hip, and is further entitled to his costs, attorney fees, and a penalty for Respondent's unreasonable refusal to pay benefits which were agreed to as part of the settlement of Petitioner's claim.

2008 MTWCC 26

SHARON L. RAU vs. MONTANA STATE FUND

Appealed to the Montana Supreme Court July 25, 2008; Remanded to WCC for Consideration of Entry of Judgment from Settlement October 15, 2008

Summary: Petitioner fainted while waiting on a customer. Her head struck the floor, which caused severe injuries. Respondent denied liability, arguing that her faint was not caused by her work or work environment.

Held: Since the medical evidence demonstrated that the reason for Petitioner's faint was more probably

than not her changing position from standing to sitting as required by her job duties, Petitioner's job duties, however seemingly benign, caused the faint which in turn caused her head injury. Therefore, Petitioner's injury occurred within the course and scope of her employment and is compensable.

2008 MTWCC 25
APRIL VanVALLIS vs. LIBERTY NORTHWEST INSURANCE CORPORATION

Summary: Petitioner was injured in the course and scope of her employment as a full-time employee. She returned to her time-of-injury job on a part-time basis because of her physician-ordered work restrictions, but was unable to adequately perform the job duties of her time-of-injury job. Petitioner's employer placed her in an alternative part-time position which allowed her to work within her 25-hours-per-week restriction. Petitioner petitioned this Court for a determination of whether the 25-hours-per-week job constitutes regular employment within the meaning of § 39-71-116(24), MCA.

Held: The Court concludes that Petitioner's job, which employed her 25 hours per week, every week, is substantial and significant, and constitutes "regular employment" within the meaning of § 39-71-116(24), MCA.

2008 MTWCC 22
YANCY STEWART vs. MACo WORKERS' COMPENSATION TRUST

Summary: Petitioner moved the Court for an order requiring Respondent to provide him with a free copy of his claim file. Respondent responded that it is well-recognized in Montana law that it may charge for such copies and that its charge of $149 for copying a 283-page claim file is appropriate.

Held: Respondent may charge Petitioner the same amount as is commonly charged by businesses offering photocopy services to the public which are located in the same community as the claim file is maintained.

2008 MTWCC 18
LEE A. MILLER vs. LIBERTY MUTUAL FIRE INSURANCE CORPORATION

Summary: Respondent moved to dismiss Petitioner's Petition for Trial on the grounds that this Court lacks jurisdiction to hear Petitioner's constitutional challenge to an administrative rule under the Montana Supreme Court's holding in Thompson v. State of Montana and Liberty Northwest Ins. Corp.[1] as Petitioner's claim does not make a direct claim for benefits. Petitioner responded that his claim does make a direct claim for benefits and furthermore, that the holding of Thompson does not preclude this Court's jurisdiction in cases where indirect claims for benefits are made but only in cases where no claims for benefits are made. The Department of Labor and Industry as amicus curiae argued that Petitioner's claim involves a claim for benefits and that this Court therefore has jurisdiction to hear the case.

Held: In his Petition for Trial, Petitioner's prayer for relief includes asking the Court to order Respondent to pay for medical expenses for which Respondent has denied coverage because Petitioner did not obtain preauthorization as required by ARM 24.29.1515(2), the administrative rule which Petitioner argues is unconstitutional. Therefore, Respondent is mistaken in its assertion that Petitioner did not make a direct claim for benefits and this Court does have jurisdiction to hear Petitioner's claim. Whether Respondent is correct in asserting that Thompson does not allow this Court to hear constitutional issues which indirectly involve a claim for benefits is immaterial.

[1] 2007 MT 185, 338 Mont. 511, 167 P.3d 867.

2008 MTWCC 17
DEBRA STAVENJORD vs. MONTANA STATE FUND

Appealed to Montana Supreme Court - 05/08/08
Remanded for Further Proceedings (Pending Settlement) - 08/20/08

Dismissed from Montana Supreme Court - 11/05/08
Summary: Respondent moved for reconsideration of this Court's Order Regarding Identification and Notification of Potential Beneficiaries, arguing that since the Court found its process to be "well thought-out and reasonable," it was not impracticable or impossible for the identification and notification procedure to commence without common fund counsel and therefore this Court should reconsider its determination that it could not comply with the Montana Supreme Court's remand order to that effect.

Held: The Court determined as a threshold issue that it was impossible to determine an acceptable identification and notification procedure for potential Stavenjord beneficiaries since, without common fund status, the Court has no jurisdiction to order non-party insurers to comply with the procedure. Therefore, irrespective of the fact that Respondent's proposed procedure appears to the Court to be "well thought-out and reasonable," the Court is unable to comply with the Supreme Court's directive on remand until such time as the Supreme Court clarifies whether the term "potential Stavenjord beneficiaries" is limited to only those claimants whose employer was insured by Respondent. Motion for reconsideration is therefore denied.

2008 MTWCC 16
MICHELLE FABBI vs. VALLEY FORGE INSURANCE COMPANY

Appealed to the Montana Supreme Court May 14, 2008

Appeal Dismissed per Joint Motion 11/26/08

Summary: Petitioner petitioned the Court for temporary total and temporary partial disability benefits for the time periods between January 24, 2001, and November 14, 2001, and from May 2, 2002, through September 29, 2002. Petitioner also requested attorney fees, costs, and a penalty. Respondent argued that Petitioner was not entitled to the requested benefits because her physician released her to her time-of-injury job and Petitioner voluntarily terminated her employment with Respondent's insured.

Held: After being released to return to work without restrictions, Petitioner advised her employer that she was not available for further work until she notified it otherwise. Petitioner never notified her employer that she was available for work after that time. Because Petitioner voluntarily terminated her employment with her time-of-injury employer for the balance of time, she is not entitled to the requested benefits.

Supreme Court Decisions on Workers' Compensation and Occupational Disease

The Supreme Court of the State of Montana, 2008 MT 254

RODNEY A. BARNARD v LIBERTY NORWEST INSURANCE CORP

WCC affirmed. 39-71-741, MCA (2003), permits lump sum payments of the whole of permanent total disability benefits, even though such conversions may result in a lump sum payment exceeding $20,000.

The Supreme Court of the State of Montana, 2008 MT 205

HENRY KRUZICH v OLD REPUBLIC INSURANCE COMPANY

Kruzich sustained a serious head injury in 1988, and was ultimately deemed permanently totally disabled (PTD). In 1994 Kruzich and Old Republic entered into a settlement agreement for both PTD and domiciliary care benefits. The agreement expressly closed "fully and forever. . .any and all present and future domiciliary care". In 2004, he was diagnosed with Parkinson's disease, most likely the result of the traumatic brain injury in 1988. The WCC rescinded the settlement agreement, holding that failure to anticipate Kruzich would ultimately contract Parkinson's disease as a result of his injury was a mutual mistake of fact justifying the rescission of the settlement agreement. The Supreme Court reversed the WCC, finding that it was undisputed that the Parkinson's disease did not exist when the parties entered into their settlement agreement. The Supreme Court held that failure to predict the future is not a mistake of fact as contemplated by the mutual mistake-of-fact doctrine.

The Supreme Court of Montana, 2008 MT 306

CHARLES LANES v MONTANA STATE FUND

The Supreme Court affirmed the WCC's decision that Mr. Lanes' temporary aggravation to his knees, while working as a minister, was not "last injurious exposure", under 39-72-303 (1), MCA (2003). The court went on to state that under 39-72-706 (1) MCA, (2003), an aggravation of a pre-existing condition may give rise to a compensable occupational disease. As they held in Polk, "the test for compensability...is whether occupational factors significantly aggravated a pre-existing condition, not whether occupational factors played the major or more significant role in causing the claimant's resulting disease." The Supreme Court concluded Montana State Fund did not provide any authority showing that a "temporary aggravation" is sufficient to establish last injurious exposure under 39-72-303 (1) MCA (2003), and that the WCC did not err in concluding this temporary aggravation did not constitute the last injurious exposure.

The Supreme Court of the State of Montana, 2008 MT 327

ELDON FLEMING v INTERNATIONAL PAPER COMPANY as successor-in-interest to CHAMPION INTERNATIONAL COMPANY, and LIBERTY NORTHWEST INSURANCE CORPORATION

The WCC determined that since 39-72-403, MCA (2003) is a statute of limitations provision and is procedural, it could be applied retroactively. The Supreme Court reversed the WCC. The statutes

in effect on the date of accident or injury control in workers' compensation cases. The Court clarified that because an occupational disease is ongoing and does not occur on one single day or at one exact time, the date of the employee's last day of work is the point from which the occupational disease claim flows.

The Supreme Court of the State of Montana, 2008 MT 394

ROBERT FLYNN and CARL MILLER, individually and on behalf of others similarly situated vs MONTANA STATE FUND and LIBERTY NORTHWEST INSURANCE CORPORATION

In this decision regarding retroactivity of Flynn and Schmill, the Supreme Court held that a "settled claim" is a department-approved or court-ordered compromised benefits between a claimant and an insurer or a claim that was paid in full. This relies on the statutory provisions of 39-71-107 (7) (a), MCA, (2005). The court affirmed the WCC's decision that retroactivity for workers' compensation claims is dependent upon whether a claim is "final" or "settled". The Supreme Court affirmed the WCC decision that refused to impose a two year statute of limitations as a limit on the retroactivity of effect to judicial decisions in workers' compensation claims.

The Supreme Court of the State of Montana, 2008 MT 443

DEAN L. KRATOVIL vs LIBERTY NORTHWEST INSURANCE CORPORATON

The Supreme Court affirmed the WCC's interpretation of 39-72-408, MCA, (2003), which requires a showing that Kratovil's employment significantly aggravated or contributed to his occupational disease, and rejected Liberty's argument that Kratovil must prove his employment was 51% the cause of his occupational illness.

The Supreme Court of the State of Montana, 2009 MT 40

DALE ALDRICH vs MONTANA STATE FUND

Temporary total disability benefits were properly denied on a 1994 occupational disease claim for surgery in December 2005. Aldrich was deemed permanently totally disabled on November 8, 2001. On December 1, 2003, Aldrich's Social Security disability benefits were converted to full Social Security retirement benefits and the Fund terminated PTD benefits effective November 30, 2003. 39-71-701 (1) MCA, (1993) establishes eligibility for TTD benefits when the worker suffers "a total loss of wages". Aldrich had not worked since 1994, did not establish or allege he was seeking gainful employment, or had viable job prospects, or another source of wages. The Court distinguished this decision from Wilson v Sun River Cattle Company, where Wilson was working for the Sun River Cattle Company and receiving full Social Security benefits at the time of his industrial accident.

Department Administered Programs

Organizational Charts

Workers' Compensation Assessments as Expended

Subsequent Injury Fund

Uninsured Employers' Fund

Occupational Safety & Health

Contractor Registration

Independent Contractor Exemption Certificates

Professional Employer Organizations

Organizational Charts

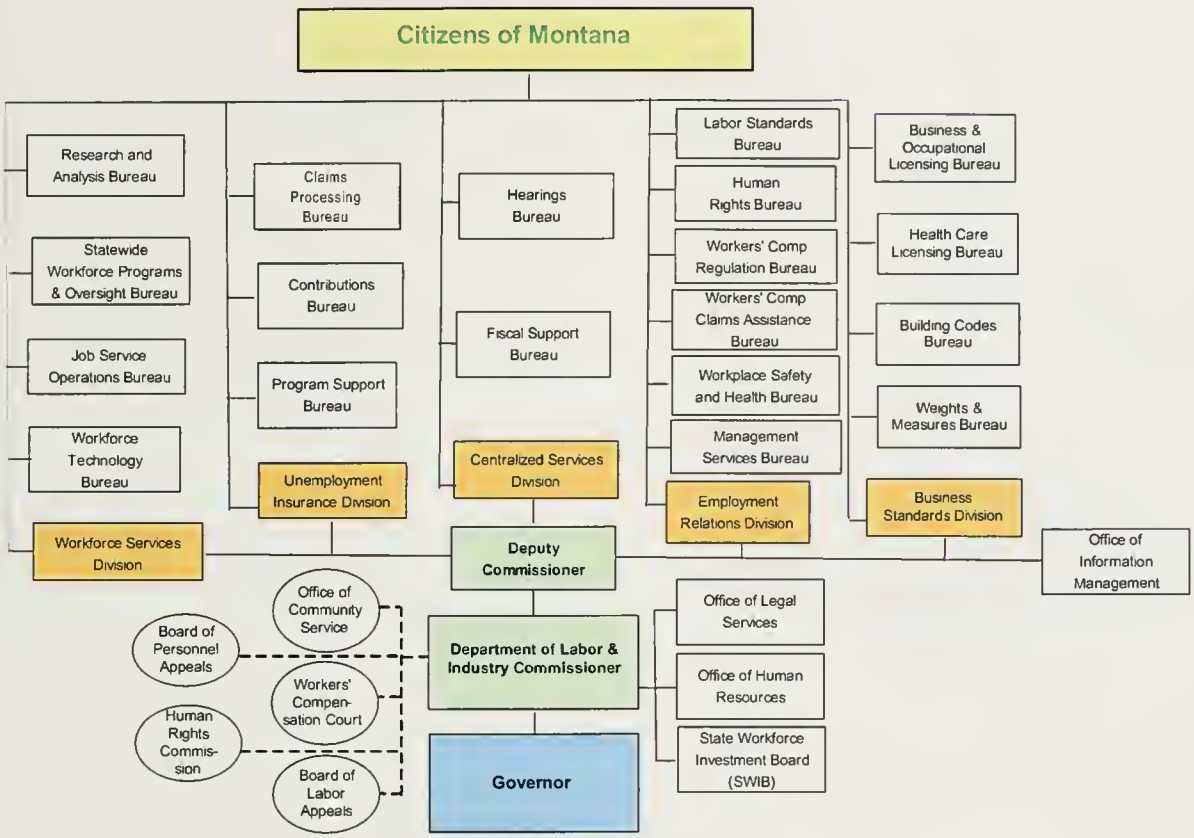
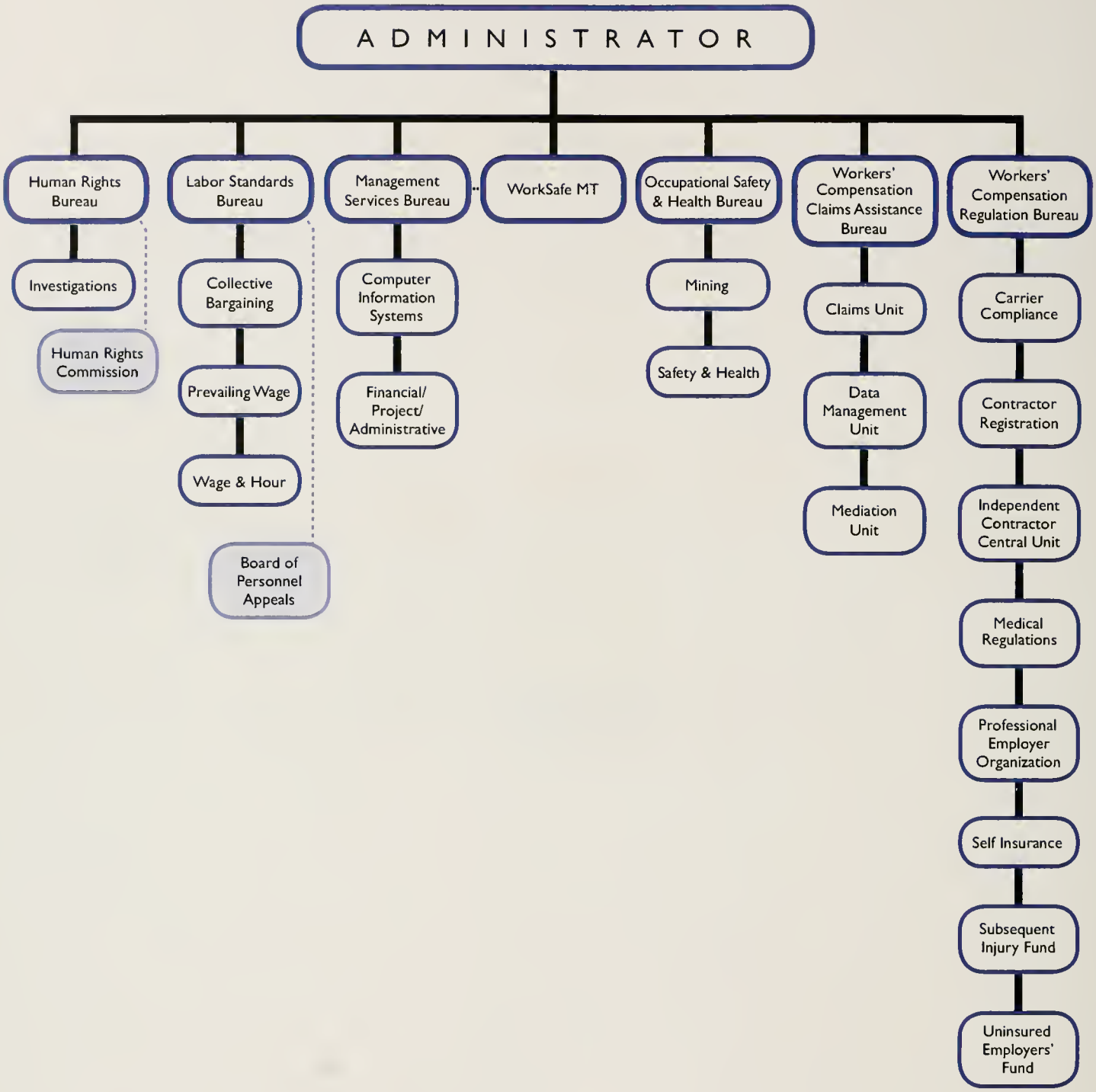


Exhibit 7.2
Employment Relations Division



Workers' Compensation Assessments as Expended

The administration of the Workers' Compensation Act and the various occupational safety laws is funded by an assessment to Plan 1 (self-insured employers), Plan 2 (private insurance carriers), and Plan 3 (Montana State Fund). Section 39-71-201, MCA, requires the administrative assessment to be three percent of benefits paid during the preceding calendar year for injuries and occupational disease covered under the Workers' Compensation Act, without regard to the application of any deductible, whether the employer or the insurer pays the losses. Benefits included in the calculation are: (1) compensation benefits paid and (2) medical benefits paid (except payments in excess of $200,000 per occurrence, which are exempt from the assessment).

DLI Functions funded by the administrative assessments:

- Legal functions of the WCC and the Hearings and Legal Bureaus;
- Administration of the ERD, including the Workers' Compensation Database;
- Claims management, data analysis, rehabilitation panels, mediation and administration functions of the Claims Assistance Bureau;
- Medical regulation, self-insurance, carrier compliance, Professional Employer Organizations (PEOS), Managed Care Organizations and administration functions of the Workers' Compensation Regulation Bureau; and
- Occupational safety statistics, public facility inspections, OSHA on-site consultation grant match, mining inspection, MSHA mine training grant match and safety culture functions of the Occupational Safety & Health Bureau.

Exhibit 7.3
Workers' Compensation Assessments as Expended
By Fiscal Year of Expenditure

FY04	FY05	FY06	FY07	FY08
$4,584,468	$4,735,449	$5,553,324	$5,771,412	$6,267,666

Subsequent Injury Fund

The Subsequent Injury Fund (SIF) was established by legislation passed in 1973. The purpose of the SIF is to assist individuals with impairments in obtaining employment by offering financial incentives to employers that hire SIF-certified individuals. Many states have similar funds called either subsequent or second injury funds.

The law defines "person with a disability" as a person who has a medically certifiable permanent impairment that is a substantial obstacle to obtaining employment or re-employment. Also taken into account are such factors as the person's age, education, training, experience and employment rejections.

The SIF program reduces the liability of the employer by placing a limit on the amount an employer, or the employer's insurer, will have to pay if the worker becomes injured or re-injured on the job. When that limit is reached, SIF assumes liability for the claim. If a certified worker does become injured on the job, the worker remains entitled to all benefits due under the Workers' Compensation Act.

There were 205 new SIF certifications during FY 2008, bringing the total to 4,208 SIF-certified individuals in the state of Montana.

Montana's program is funded through an annual assessment on Plan 1, Plan 2 and Plan 3 via direct bill or via a surcharge. The assessment surcharge is based on a percentage of the wage loss and medical benefits paid in Montana by each insurance plan in the preceding calendar year. The rate is set by the ERD based on the total amount of paid losses reimbursed by the fund in the preceding calendar year and the expenses of administration, less other income[1]. The fund did not assess in FY06 and FY07 because the total assessment calculated was less than $200,000[2].

[1] §39-71-915(2), MCA
[2] §39-71-915(10), MCA, L. (2005)

Exhibit 7.4
SIF Payments and Dollars Assessed
By Plan Type[3] and Calendar/Fiscal Years

Plan Type	FY04		FY05		FY06		FY07		FY08	
	Payments CY03	Assessment FY04	Payments FY04[4]	Assessment FY05	Payments FY06	Assessment FY06	Payments FY07	Assessment FY07	Payments FY08	Assessment FY08
Plan 1	62,115	0	55,417	42,792[5]	184,279	0	340,568	0	405,627	89,001
Plan 2	135,513	14,857	116,938	82,832	17,545	0	250,886	0	103,636	149,929
Plan 3	94,312	48,642	204	151,763	223,959	0	1,183	0	118,420	213,388
Total	***$291,940***	***$63,499***	***$172,559***	***$234,595***	***$425,783***	***$0***	***$592,637***	***$0***	***$627,683***	***$452,318***

[3] Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund.
[4] Change from Calendar Year to Fiscal Year basis.
[5] Previous year carryover credit from Plan 1 reduced the actual Assessment to zero.

Uninsured Employers' Fund

The role of the Uninsured Employers' Fund (UEF) is to provide benefits to employees injured on the job while working for an uninsured employer. Another primary role of the UEF is to ensure employers comply with workers' compensation laws so that employees are properly covered.

The UEF Unit levies and collects penalties for the time that the employer is uninsured. UEF requires an uninsured employer to pay a penalty to the fund. Penalties can be double the insurance premium that would have been paid by the employer, or $200, whichever is greater.

Exhibit 7.5
Uninsured Employers' Fund
Financial Activity by Fiscal Year

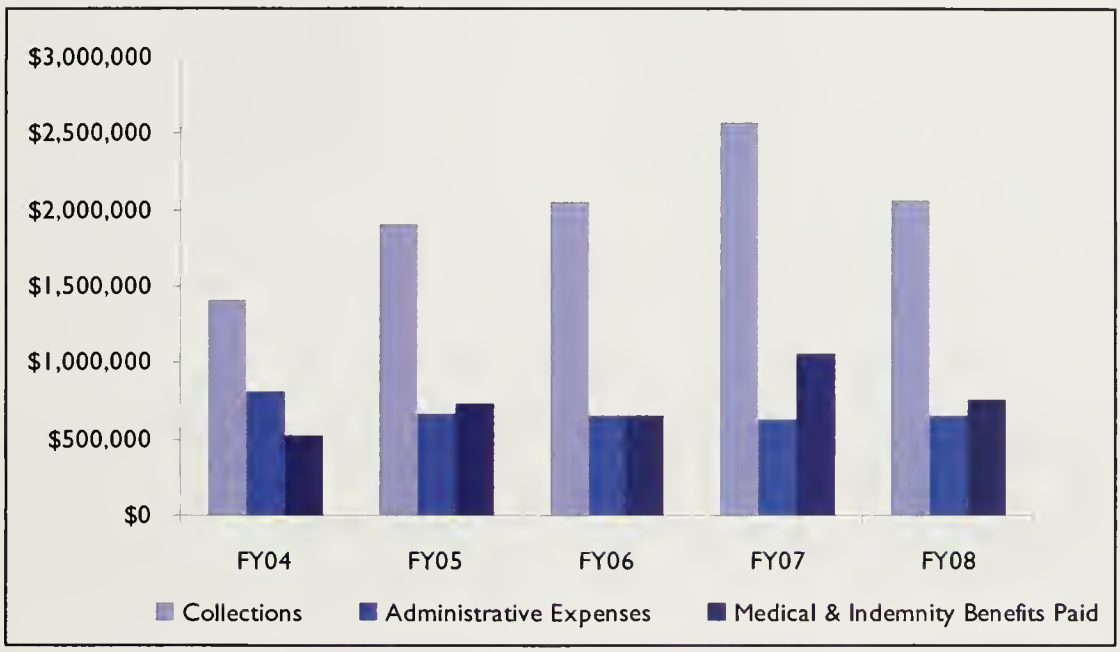


Exhibit 7.6
Uninsured Employers' Fund
Financial Activity by Fiscal Year

	FY04	FY05	FY06	FY07	FY08
Collections	$1,412,419	$1,908,717	$2,051,992	$2,574,227	$2,056,374
Administrative Expenses	$808,130	$665,296	$650,133	$625,967	$649,248
Medical & Indemnity Benefits Paid	$522,973	$728,279	$654,758	$1,056,844	$757,302

Exhibit 7.7
UEF Medical and Indemnity Payments - FY08

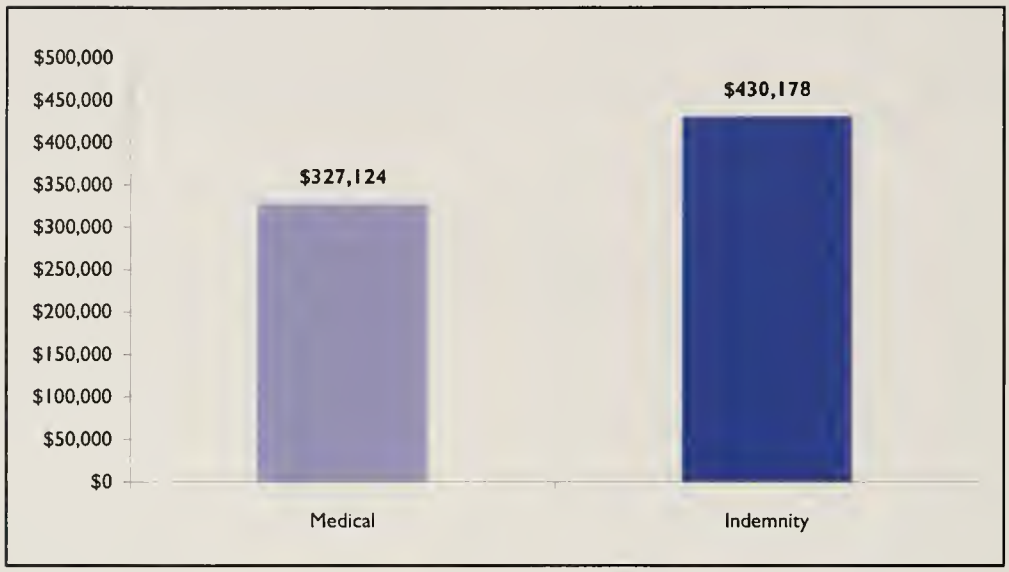


Exhibit 7.8
UEF Medical and Indemnity Payments
By Fiscal Year

	FY04	FY05	FY06	FY07	FY08
Medical	174,388	470,659	336,953	637,303	327,124
Indemnity	348,585	257,620	317,805	419,541	430,178
Total	***$522,973***	***$728,279***	***$654,758***	***$1,056,844***	***$757,302***

Note: The UEF recorded claims from 71 workers who were injured in FY08 and whose employers were uninsured.

Occupational Safety & Health

The Occupational Safety & Health Bureau's (OSHB) goal is to keep Montana a safe place to work. OSHB accomplishes this goal by:

- Promoting the Montana Safety Culture Act;
- Conducting public-sector compliance inspections;
- Conducting private-sector consultation visits;
- Inspecting mine sites;
- Providing expert technical assistance;
- Educating and training on practical safety topics; and
- Partnering with other agencies and associations.

Montana employers and workers have an additional safety-oriented resource in the Montana Safety Culture Act. This Act focuses on encouraging employers and employees to work together to implement strong workplace safety programs. Information on the Act's requirements and how to implement them can be found at: http://erd.dli.mt.gov/safetyhealth/cultureact.asp

OSHB provides private and public sector safety and health consultation, training, education, and compliance assistance. Federal Occupational Safety and Health Administration (OSHA) and Mining Safety and Health Administration provide grant money and guidelines.

The Occupational Safety & Health Training Institute within DLI offers basic and advanced training courses in safety and health. These courses are scheduled a year in advance and are free of charge. Subject matter includes the OSHA 10-Hour course for general industry and for construction, confined space, inspection techniques, trenching and excavation, accident investigation, scaffolding, health and safety management, fall protection, welding and more. Courses are designed to build a more effective workforce and to aid in the professional development for Montana employers and employees. The Institute maintains a record of courses successfully completed by each student. These records are useful to both the student and the employer in demonstrating the commitment to a strong safety culture. Certificates are issued to those successfully completing the various courses. For more information, visit: www.montanasafety.com

OSHB partners with private and public entities to organize and present monthly safety and health presentations. The monthly Focus Groups target risk managers, safety coordinators and students in the field of safety and health to address the most current issues of the day. Also, the Bureau provides private sector interventions aimed at helping businesses improve their health and safety management systems.

Occupational Safety & Health Activities - FY08

Exhibit 7.9

Occupational Safety & Health - Employer Sector	
Public Inspections Performed	279
On-Site Inspections Performed	232
Total	***511***

Exhibit 7.10

Mining Section	Coal					Sand & Gravel Operations				
	FY04	FY05	FY06	FY07	FY08	FY04	FY05	FY06	FY07	FY08
Inspections Conducted	37	39	34	35	35	78	59	51	62	116
Mine Training Sessions Conducted	9	10	8	5	6	122	93	128	150	177
Workers Trained	210	169	31	56	20	2,468	1,728	1,983	2,192	2,528
Coal Mine Foremen Training Sessions Conducted	2	1	8	5	6	--	6	--	--	--
Coal Mine Foremen Trained	28	6	45	43	25	--	--	--	--	--

Exhibit 7.11

Training Institute	CY04	CY05	CY06	CY07	CY08
Training Sessions	45	40	43	40	53
Workers Trained	805	949	646	705	890
Local Focus Groups	**CY04**	**CY05**	**CY06**	**CY07**	**CY08**
Training Sessions	69	40	51	22	52
Workers Trained	603	676	749	284	702
Interventions	**CY04**	**CY05**	**CY06**	**CY07**	**CY08**
Outreach/Assistance	--	--	--	60	98
Workers Affected	--	--	--	181	1,507

Contractor Registration

The Construction Contractor Registration program, (CCR), facilitates the registration of construction contractors working in Montana. All construction contractors that have employees are legally required to register, as are corporations and manager-managed limited liability companies.

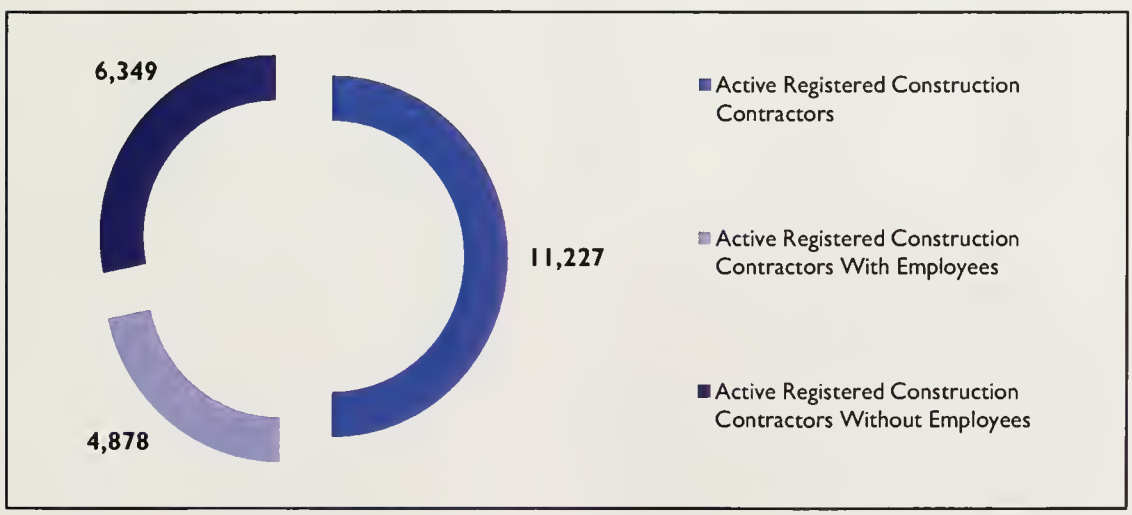
The CCR program serves two primary purposes. The first is to level the playing field by assuring all construction contractors with employees provide Montana workers' compensation coverage. The second is to prevent the upward migration of liability. Registration does not include licensing, bonding or testing; hiring a registered contractor is not a guaranty of quality.

Montana does not allow workers' compensation coverage from another state in the construction industry. An out of state construction company only bidding jobs in Montana may ask for a "Bid Only" registration. However, prior to commencing construction work in Montana, they must have Montana workers' compensation coverage. Construction companies with "Bid Only" registration must also upgrade the registration before commencing work in Montana.

There were 11,227 active Construction Contractor Registration in 2008, with approximately 4,878 contractors registered as having employees. This indicates that 6,349 registered contractors do not have employees, and may not have a workers' compensation policy. Subcontracting most projects on a job is the construction industry's response to the rising costs of workers' compensation.

Exhibit 7.12
Registered Construction Contractors - FY08

Active Registered Construction Contractors	Active Registered Construction Contractors With Employees	Active Registered Construction Contractors Without Employees
11,227	4,878	6,349



Independent Contractor Exemption Certificates

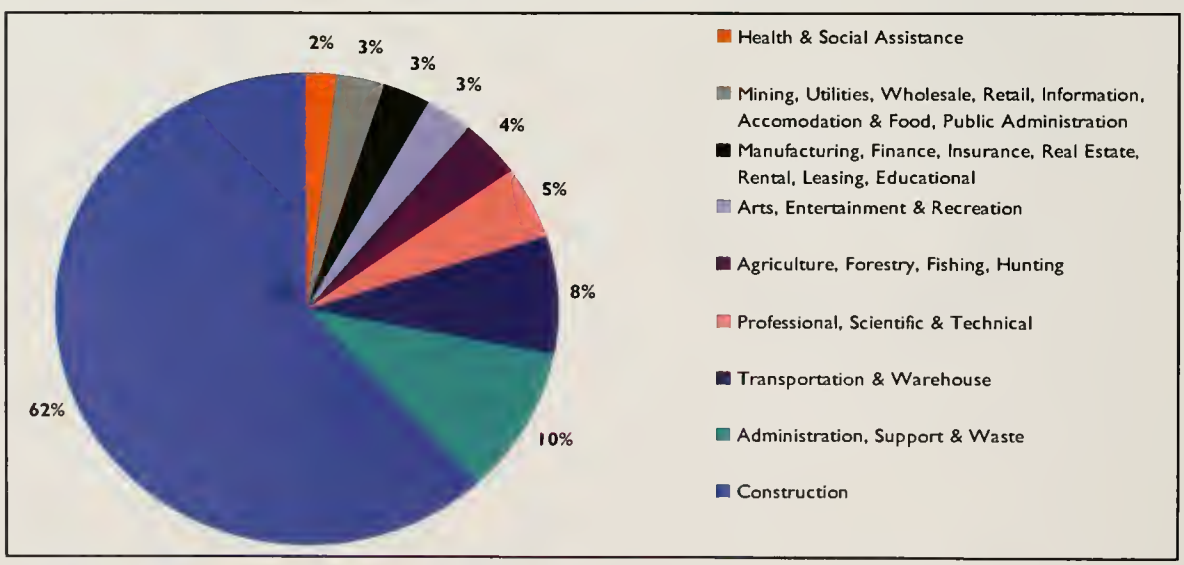
Independent Contractor Exemption Certificates are issued through the department's Independent Contractor Central Unit. It is the intent of the program to assure only those individuals who are truly established in a business receive an Independent Contractor Exemption Certificate and those who hire them can rely on the certificate as conclusive proof the worker is an independent contractor.

Certificates may be suspended if enough control is exerted over the worker by the hiring agent enough to destroy the independent contractor relationship. They may also be revoked if a certificate holder fails to cooperate with the department. During FY 2008, 234 investigations took place across the state either affirming independent contractor relationships or requiring workers' compensation policies. The department revoked 28 exemption certificates for failure to cooperate with the department's investigation.

One goal of the program is to educate the public of the rights and responsibilities of being an independent contractor or hiring one. This is accomplished through seminars, presentations, home show participation, small community fairs, news articles, a multi-media campaign, and as a last resort, penalty enforcement. Both the worker and those that hire them may be penalized. No penalties were issued in FY 2008.

The department received 9,761 applications during FY 2008, of which 9,259 were approved and 502 denied. Failure to provide a complete application was the primary reason for the denials. With 62% of the total applications, the Construction industry is clearly the industry with the largest number of applicants. The next three industries by volume were Administrative and Support and Waste Management and Remediation Services at 10%; Transportation and Warehousing applications at 8%; and Professional, Scientific and Technical Services at 5%. The graph below categorizes all exemption applications received, by industry.

Exhibit 7.13
Percent of Independent Contractor Exemptions Applications
By Industry, Fiscal Year 2008



The website www.mtcontractor.com provides more information on independent contractors in Montana.

Professional Employer Organizations

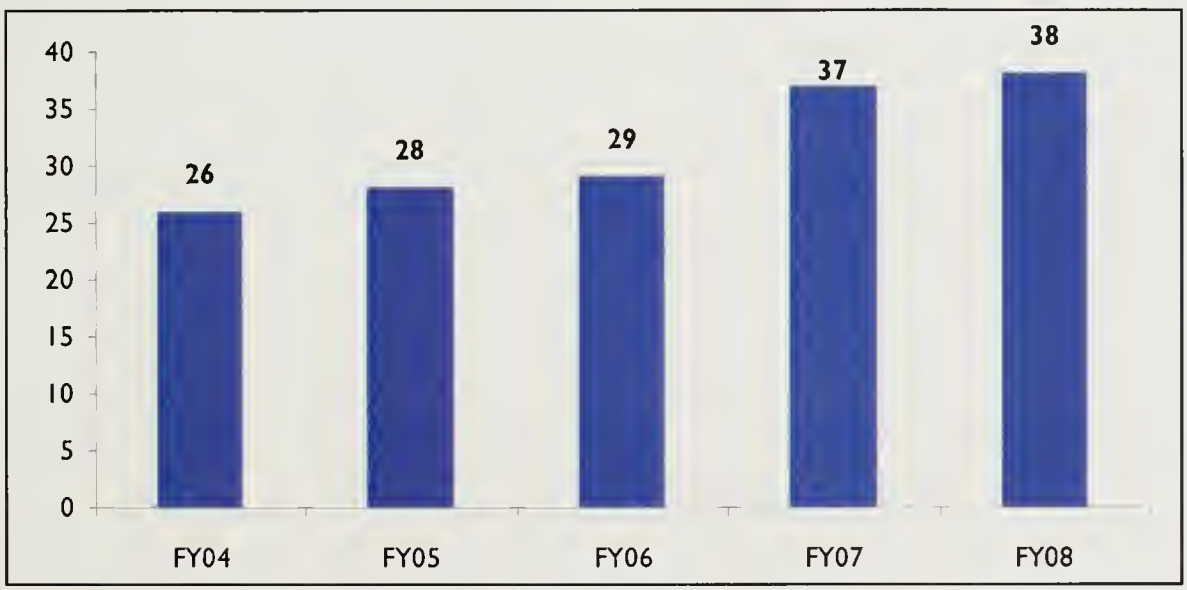
Professional Employer Organizations (PEO's) are required to be licensed by the Department of Labor and Industry prior to operating in Montana. A PEO is a business that contracts with other businesses, providing them leased employees.

A PEO manages the paperwork responsibilities associated with having employees. They pay employee wages, workers' compensation premiums, payroll-related taxes, and employee benefits from their own account without regard to payments by the client. Thus, they become the employer of record. The client company in return pays the PEO the employee costs plus an administrative fee.

A client is an employer who obtains all or a part of its workforce through an employee leasing arrangement or a professional employer arrangement both by contract with a PEO. The client company is sometimes termed a co-employer.

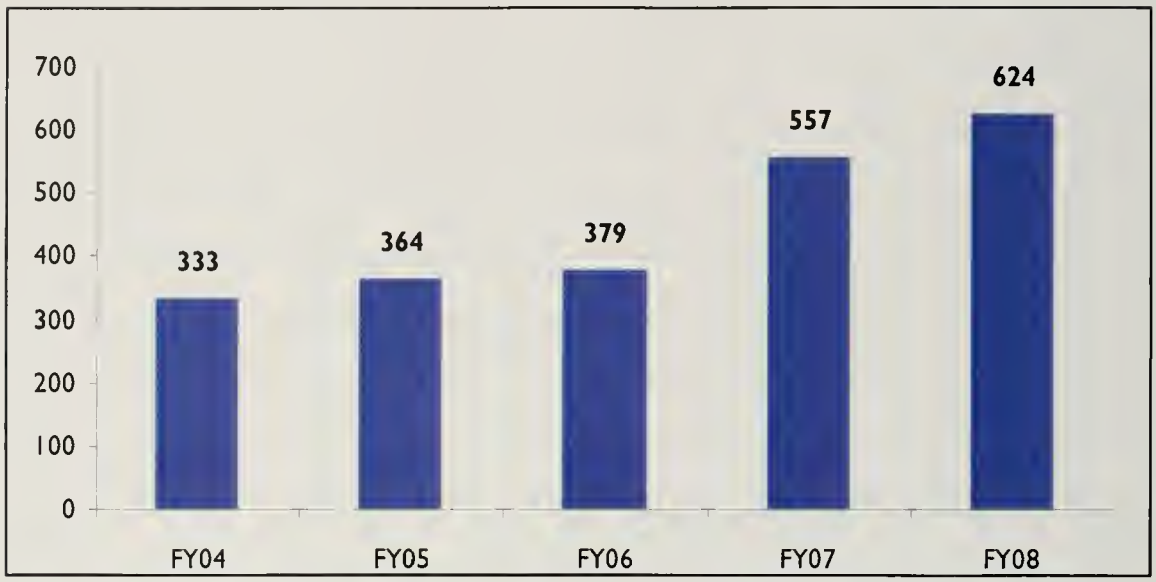
In FY 2008, the Employment Relations Division renewed and maintained 38 PEO licenses. The number of client companies maintaining contracts with a PEO has increased significantly since FY 2006. There were 624 client companies in FY 2008, employing 3,321 employees.

Exhibit 7.14
Licensed Professional Employer Organizations
By Fiscal Year



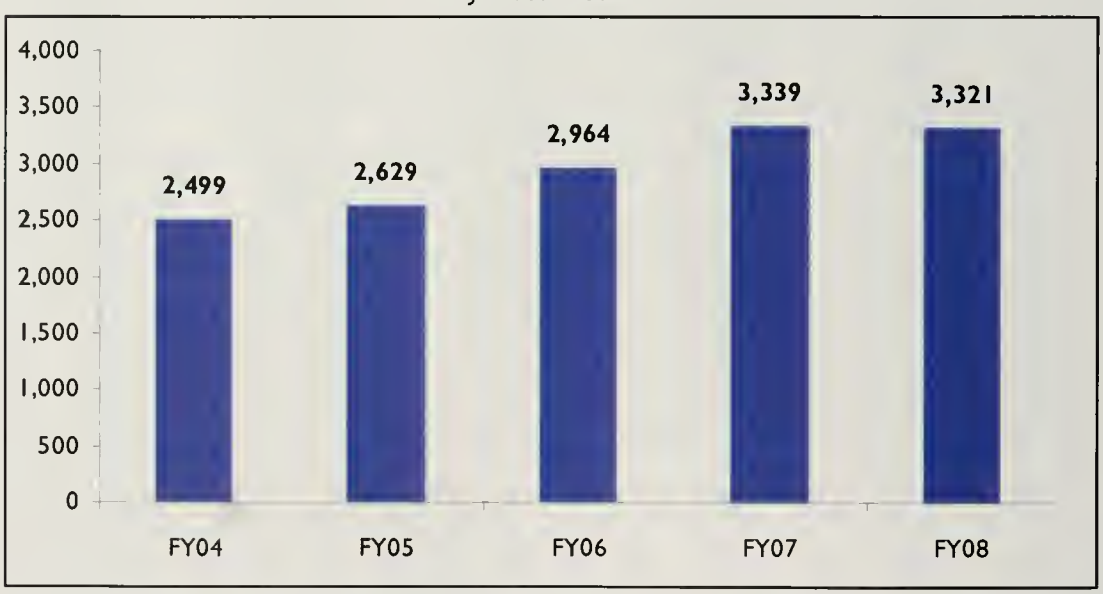
Source: WC Regulation Bureau

Exhibit 7.15
Number of Professional Employer Organization Clients
By Fiscal Year



Source: Unemployment Insurance Division

Exhibit 7.16
Leased Employees
By Fiscal Year



Source: Unemployment Insurance Division

Appendices

Definitions

Methodology

Data Sources

Future Annual Reports

Internet Site

Forthcoming
Special Studies

Definitions

Calendar Year: The year beginning January 1st and ending December 31st.

Cause of Injury Code: The code that corresponds to the cause of injury or occupational disease. Maintained by the Workers' Compensation Insurance Organizations, the codes for cause of injury are grouped into ten categories. (www.iisprojects.com/WCIO/pub/PNC/WCIO_Cause_Table.pdf)

> **Burn or Scald – Heat or Cold exposures – Contact With:** Chemicals, hot objects or substances, temperature extremes, fire or flame, steam or hot fluid, dust, gases, fumes or vapors, welding operation, radiation, contact with, NOC, cold objects or substances, abnormal air pressure, electrical current
>
> **Caught In, Under or Between:** Machine or machinery, object handled, caught in, under or between, NOC, collapsing materials (slides of earth).
>
> **Cut, Puncture, Scrape Injured By:** Broken glass, hand tool, utensil; not powered, object being lifted or handled, powered hand tool, appliance, cut, puncture, scrape, NOC.
>
> **Fall, slip or Trip Injury:** From different level (elevation), from ladder or scaffolding, from liquid or grease spills, into openings, on same level, slip or trip did not fall, fall slip or trip NOC, on ice or snow, on stairs.
>
> **Motor Vehicle:** Crash of water vehicle, crash of rail vehicle, collision or sideswipe with another vehicle, collision with a fixed object, crash of airplane, vehicle upset, motor vehicle, NOC.
>
> **Strain or Injury By:** Continual noise, twisting, jumping or leaping, holding or carrying, lifting, pushing or pulling, reaching, using tool or machinery, strain or injury by NOC, wielding or throwing, repetitive motion.
>
> **Striking Against or Stepping On:** Moving part of machine, object being lifted or handled, sanding, scraping, cleaning operation, stationary object, stepping on sharp object striking against or stepping on NOC.
>
> **Struck or Injured By:** Fellow worker, patient or other person, falling or flying object, hand tool or machine in use, motor vehicle, moving parts of machine, object being lifted or handled, object handled by others, struck or injured NOC, animal or insect, explosion or flare back.
>
> **Rubbed or Abraded By:** Repetitive motion, rubbed or abraded NOC.
>
> **Miscellaneous Causes:** Absorption, ingestion, or inhalation NOC, foreign matter (body) in eye (s), natural disasters, person in act of a crime, other than physical cause of injury, mold, terrorism, cumulative NOC, other – miscellaneous, NOC.

Compensation Benefits: Wage loss, medical, rehabilitation and all other benefits that are payable under the Montana Workers' Compensation and Occupational Disease Acts.

Employment Relations Division (ERD): The State of Montana's regulatory agency for workers' compensation. This division is part of Department of Labor & Industry.

Fiscal Year: The State of Montana's fiscal year begins July 1st and ends June 30th of the following year. (Example: 07/01/07 - 06/30/08 = FY08)

First Report of Injury and Occupational Disease (FROI): The initial report designed to notify parties of the occurrence of an injury or occupational disease. The FROI contains basic claim information about the worker, accident, employer and insurer.

Indemnity Benefits: Any payment made directly to the worker (or the worker's beneficiaries), other than a medical benefit. The term includes payments made pursuant to a reservation of rights, or in settlement of a dispute over initial compensability of the claim. The term does not include expense reimbursements for items such as meals, travel or lodging. ARM 24.29.4303(4)

International Association of Industrial Accident Boards and Commissions (IAIABC): An organization of workers' compensation specialists including government officials and regulators, business and labor leaders, medical providers, law firms, insurance carriers, and rehabilitation and safety experts. Working groups work jointly to standardize reporting of workers' compensation data. Standards have been developed for communicating data electronically through Electronic Data Interchange (EDI). www.iaiabc.org.

Montana Code Annotated (MCA): The definitive guide to Montana laws, consisting of the Constitution, codes and statutes. The MCA is normally published each odd numbered year incorporating changes made by the Legislative session of that year.

Nature of Injury Code: The code that corresponds to the nature of the injury or occupational disease. Maintained by the Workers' Compensation Insurance Organizations, the codes for nature are grouped into eight categories. A ninth category "All Other Claims, NOC", was created to account for the records that did not have a nature code entered. (www.iisprojects.com/WCIO/pub/PNC/WCIO_Nature_Table.pdf)

> **All Other Claims, NOC:** Includes asphyxiation, loss of circulation, infection, concussion, heart problems, vision loss, hearing loss, poisoning, fainting, no physical or psychological injuries; includes all records where nature code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.
>
> **Amputation:** Includes loss of a limb that involves bone, loss of part of an organ, enucleation or severance of a body part.
>
> **Bruise or Swelling:** Includes contusions, broken blood vessels and inflammation.
>
> **Burn or Exposure:** Includes electrical shocks, chemical burns, temperature extremes, freezing, sunburns, heat stroke and lightning.
>
> **Cut or Abrasion:** Includes slivers, lodged small objects, open wounds, scrapes and needle sticks.
>
> **Fracture:** Includes any breaking of a bone.
>
> **Multiple Injuries:** Involves more than one Nature of Injury Code.
>
> **Occupational Disease:** Includes repetitive motion, loss of hearing or sight, respiratory conditions, poisoning, mental disorders, radiation, heart disease, cancer, AIDS, carpal tunnel and any disease resulting from work related experiences.
>
> **Sprain or Rupture:** Includes strains, dislocations, hernias, organ ruptures and trauma to joints or muscles.

Other Benefits Code: A code that identifies the type of other benefits paid to date or recovered for an injury or occupational disease. The following are IAIABC code definitions:

> **Consultant/Expert Witness Fees Paid to Date by Insurer:** Sum of fees paid to expert witnesses (in a legal proceeding for expert testimony or opinion) for this claim.
>
> **Employer's Deductibles Recovery:** Sum of monies recovered through Insured reimbursement of deductible amounts for this claim.
>
> **Funeral Expenses Paid to Date:** Sum of the funeral expenses for this claim.
>
> **Hospital Costs Paid to Date:** Sum of costs of both inpatient and outpatient services which the injured employee received because of the work related injury.
>
> **Employer's Legal Expense Paid to Date:** Sum of the employer's legal expenses paid for this claim.
>
> **Other Medical Paid to Date:** Sum of medical costs not included in payments to physicians or hospital costs, i.e. laboratory tests, prescriptions.

Other Vocational Rehabilitation Education Paid to Date: Sum of vocational rehabilitation services not otherwise reported for this claim.

Overpayment Recovery: Sum of monies recovered due to overpayment of indemnity, medical or expenses for a claim.

Subrogation Recovery: Sum of monies recovered through subrogation for this claim.

Total Payments to Physicians Paid to Date: Sum of services paid to physicians for this claim.

Unspecified Recovery: Sum of monies recovered through salvage, apportionment/contribution, and all others not otherwise defined for a claim.

Vocational Rehabilitation Education Paid to Date: Sum of vocational rehabilitation education payments (including tuition, books, tools, transportation and additional living expenses) for this claim.

Vocational Rehabilitation Evaluation Expense Paid to Date: Sum of vocational rehabilitation evaluation services (testing and evaluating the claimant's ability, aptitude, or attitude in determining suitability for vocational rehabilitation or placement) for this claim.

Part of Body Code: The code which corresponds to the part of body to which the employee sustained injury or occupational disease. Maintained by the Workers' Compensation Insurance Organizations, the code definitions for part of body are divided into six categories. The additional categories of "Wrist", "Back" and "Knee" are reported to provide greater detail. A tenth category, "All Other Claims, NOC", was created to account for the records that did not have a part of body code entered. (www.iisprojects.com/WCIO/pub/PNC/WCIO_Part_Table.pdf)

All Other Claims, NOC: Includes all records where the part of body code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to IAIABC codes.

Back: Includes the upper and lower back, disc, or lumbar and sacral vertebrae.

Head: Includes multiple head injuries, skull, brain, ears, eyes, nose, teeth, mouth, soft tissue or facial bones.

Knee: Includes the patella (kneecap) and supporting ligaments.

Lower Extremities: Includes multiple lower extremities, hip, upper leg, lower leg, ankle, foot and toe.

Multiple Body Parts: Includes artificial appliances, multiple body parts or body systems.

Neck: Includes multiple neck injuries, vertebrae, disc, spinal cord, larynx, soft tissue or trachea.

Trunk: Includes multiple trunk injuries, disc, chest, sacrum and coccyx, pelvis, spinal cord, internal organs, heart, lungs, abdomen (including groin) and buttocks.

Upper Extremities: Includes multiple upper extremities, upper arm, elbow, lower arm, fingers, thumb and shoulders.

Wrist: Includes hand and wrist or just wrist injuries.

Occupational Disease: Harm or damage caused by work-related events that occur on more than a single day or work shift. It includes acute chronic illnesses or diseases caused by inhalation, absorption, ingestion or overuse syndrome.

Occupational Injury: A cut, fracture, sprain, amputation, or other physical harm, which results from a work accident on a single day or during a single work shift.

Permanent Partial Disability (PPD): Permanent impairment resulting from an injury or occupational disease, after achieving maximum medical improvement that impairs the worker's ability to work and causes an actual wage loss. PPD benefits

are calculated using 66 2/3% of the wages received at the time of injury, not to exceed half the state's average weekly wage at the time of injury. Maximum length for PPD benefits is determined by the date of injury.

Permanent Total Disability (PTD): A physical condition resulting from an injury or occupational disease, after achieving maximum medical improvement, in which the worker has no reasonable prospect of physically performing regular employment. PTD benefits are calculated using 66 2/3% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury. The injured worker may receive cost of living increases.

Plan Type: The type of workers' compensation insurance coverage chosen by an employer. There are three different types of insurance plans:

Plan 1: Self-insurance provided by employers who have sufficient financial strength to cover potential workers' compensation claims. If an injury occurs, a self-insured employer will pay the expenses and benefits.

Plan 2: Insurance coverage provided by a private insurance company.

Plan 3: Insurance coverage provided by the Montana State Compensation Insurance Fund (Montana State Fund).

UEF: Uninsured Employers Fund (UEF).

Professional Employer Organizations (PEO): Professional Employer Organizations provide human resource services for small to medium size businesses. Examples of services provided by PEOs are staffing, securing unemployment and workers' compensation insurance, and handling payroll taxes and medical benefits. PEOs must be licensed by ERD prior to contracting with any client companies.

Standard Industrial Classification (SIC) Codes: Codes used to categorize employers by industry and are published by the Federal Office of Management and Budget in the 1987 Standard Industrial Classification Manual. SIC codes are grouped into ten different industrial divisions, as listed below with examples of each division:

Agriculture, Forestry & Fishing (AFF): Includes establishments primarily engaged in agricultural production, forestry, commercial fishing, hunting, trapping and related services.

Construction: Includes establishments performing new work, additions, alterations, reconstruction, installations, and repairs. Three broad types of construction activity are covered: building construction by general contractors, heavy construction other than building by general contractors, and construction activity by other special trade contractors.

Finance, Insurance and Real Estate (FIRE): Finance includes depository institutions, non-depository credit institutions, holding companies, other investment companies, brokers and dealers in securities and commodity contracts, and security and commodity exchanges. Insurance covers carriers of all types of insurance, and insurance agents and brokers. Real estate includes owners, lessors, lessees, buyers, sellers, agents, and developers of real estate. Establishments primarily engaged in the construction of buildings for sale are classified in construction.

Manufacturing: Includes establishments engaged in the mechanical and chemical transformation of materials or substances into new products. These establishments are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of materials, such as lubricating oils, plastic resins or liquors.

Mining: Includes all establishments engaged in the extraction of minerals occurring naturally, and also includes quarrying, well operations, milling, and other preparation customarily done at the mine site, or as a part of mining activity. Exploration and development of mineral properties are included.

Public Administration: Includes the executive, legislative, judicial, administrative and regulatory activities of federal, state and local governments.

Retail Trade: Includes establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods.

Services: Includes establishments primarily engaged in providing a wide variety of services for individuals, business or government establishments, and other organizations such as, hotels and other lodging places; establishments providing personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational institutions; and membership organizations.

Transportation, Communication, and Public Utilities (TCPU): Includes establishments providing to the general public, or to other business enterprises, passenger and freight transportation, communications services, or electricity, gas, steam, water, or sanitary services and all establishments of the United States Postal Service.

Wholesale Trade: Includes establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, farm, construction contractors, or professional business users, or to other wholesale; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

Subsequent Report of Injury (SROI): A report that gives indemnity and medical payment information on an injured worker's claim. The report includes the date benefit payments begin and amounts paid by benefit type.

Temporary Partial Disability (TPD): A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement that causes a partial loss of wages. TPD benefits are the difference between the injured worker's actual weekly wage and the actual weekly wage earned during the injured worker's temporary partial disability. TPD benefits are limited to a total of 26 weeks, but the insurer may extend the period. They are subject to a maximum of 40 hours per week and capped at the injured worker's Temporary Total Disability rate.

Temporary Total Disability (TTD): A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement that causes a total loss of wages. TTD benefits are calculated using $66^{2}/_{3}$% of the wages received at the time of injury, not to exceed the state's average weekly wage at the time of injury.

Vocational Rehabilitation Benefits: Benefits paid to the injured worker at the worker's TTD rate. The benefits are paid for the period specified in the job placement or retraining plan, not to exceed 104 weeks. The plan is prepared by the rehabilitation provider and agreed to by the insurer and injured worker.

Methodology

Industry Divisions

Information is grouped by industry division whenever possible to allow for comparison using SIC codes. It is not mandatory to report SIC codes and if they are not provided, the injury will be reported under "NOC-Not Otherwise Classified" on the tables.

Injury and Occupational Disease Data

The First Report of Injury and Occupational Disease (FROI) is used to gather injury and occupational disease data. FROIs consist of four sections that provide information on the worker, accident, employer and insurer. It is completed and submitted to ERD by employees, employers or insurers. The injury or occupational disease may be reported under "NOC-Not Otherwise Classified", due to lack of data or the inability to categorize the data.

The FROIs in this study include all injuries and occupational diseases reported to ERD; however, all injuries and occupational diseases that occurred in Montana may not have been reported.

Subsequent Report Data

The Subsequent Report (SROI) is completed for each individual indemnity claim and is submitted to ERD by adjusters or insurers on every six-month anniversary of the date of injury, until the claim is closed or additional compensation or medical payments are not anticipated. The form includes claimant identification information, status of the claim, type of benefits paid and benefit payment amounts.

The study includes data reported to ERD on injury and occupational disease indemnity claims. Subsequent Reports may not have been submitted to ERD for all indemnity claims.

Benefits Section Report Methodology

The benefit information used to determine the amounts and dates of paid benefits is extracted from Subsequent Reports of Injury (SROIs). SROIs are reports that the DLI requires insurance companies to submit at six month intervals from the date of injury throughout the life of an indemnity claim. The reports provide updates as to the status of an indemnity claim, including information on the wage loss and medical benefits paid.

For wage loss benefits, the SROI contains the amount paid for each type of wage loss benefit and specifies both the date benefits began and the date through which the stated benefit amount was paid.

For medical benefits, the payment start and end dates are not explicitly stated. The medical benefit information is required to be up-to-date when the SROI is submitted; therefore, the SROI submission date is used as the date through which medical benefit payment information is current. A SROI must be submitted within six months of the payment of medical benefits; accordingly, the most recent of the date of injury or the date six months previous to the SROI submission date or the date immediately after the previous SROI submission date is used as the benefit payment start date.

For example, the injury date for a claim is 8/1/1999. The first SROI with medical benefit paid to physicians ($500) was submitted on 12/25/1999. Therefore the payment ($500) start date was 8/1/1999 and the end date was 12/25/1999. The second SROI was submitted on 7/3/2000. The total payment to physicians paid to date was $1000. The benefit difference between the two submitted SROI was $500, paid from 1/3/2000 to 7/3/2000.

For each type of benefit, the paid amount was distributed proportionally over the months between the payment start and end dates. The monthly benefit amounts were inflation adjusted to December 2008 dollars using CPI-U provided by the U. S. Department of Labor Bureau of Labor Statistics. Next, the monthly benefit amounts were aggregated by year from date of injury.

To illustrate this methodology, assume a benefit is paid from 2/1/2000 to 4/1/2001 for an injury that occurred on 8/1/1999. The benefits (post inflation adjustment) paid from 2/1/2000 to 8/1/2000 are reported in year one, and benefits paid from 8/2/2000 to 4/1/2001 are reported in year two.

For each claim and type of benefit an amount was identified in this manner for each year from the date of injury. The yearly amounts from all of the individual claims and relative benefit types were compiled and grouped by year, post the date of injury. All benefit amounts were adjusted for inflation and are stated in 2008 dollars.

Data Sources

Department of Labor and Industry, Mediation Unit

The Mediation Unit of ERD provided mediation section data.

Department of Labor and Industry, Occupational Safety and Health Bureau

The Safety and Health Bureau of ERD provided safety section data.

Department of Labor and Industry, Workers' Compensation Regulation Bureau

The Workers' Compensation Regulation Bureau provided data for the following sections of the report: Plan 1 Gross Annual Payroll, Plan 2 and 3 premium dollars, PEOs, Indemnity and Medical Benefits, SIF, Managed Care Organizations (MCOs), UEF, Contractor Registration, and Independent Contractor Exemption Certificates.

Department of Labor and Industry Hearings Bureau

The Hearings Bureau provided Contested Case Hearings data.

Quarterly Expenditure Reports

Quarterly Expenditure Reports are reported to the DLI by carriers. Totals are data entered into WCAP in three categories: compensation, medical and miscellaneous.

Regulatory Costs and Industrial Accident Rehabilitation Trust Fund Expenses

These costs were obtained from the State's Accounting, Budgeting and Human Resource System (SABHRS).

Workers' Compensation Court

WCC data were provided by the court, which is administratively attached to the DLI.

Workers' Compensation Database (WCAP)

The database system was built at the request of the legislature to provide management information. Employers, insurers, claimants, attorneys, medical providers and other parties of the workers' compensation community in Montana provide data for the system. ERD maintains the database.

Future Annual Reports

If you have suggestions or comments about this annual report, please share them with us. We are most interested in any comments or suggestions that will make this report more useful to Montanans in general and the workers' compensation system in particular. You may direct your comments to:

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Internet Site

This report and previous reports are available on the Internet at the following web site:
http://erd.dli.mt.gov/wcclaims/wcchome.asp

Forthcoming Special Studies

- The Attorney Fee Supplement
- Research and survey studies regarding return-to-work duration and outcomes

To request a copy of an Annual Report, Attorney Fee Supplement or special study please contact:

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